

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: : CIVIL ACTION NO.  
: 19-6019  
WAWA, INC. DATA SECURITY :  
LITIGATION : STATUS CONFERENCE  
:  
:  
:

James A. Byrne U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106  
December 5, 2023  
Commencing at 3:06 p.m.

BEFORE THE HONORABLE GENE E.K. PRATTER

APPEARANCES:

FOR THE CONSUMER  
PLAINTIFFS:

BERGER MONTAGUE, PC  
BY: SHERRIE R. SAVETT, ESQUIRE  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103  
(215) 875-3000  
ssavett@bm.net

Cherilyn M. McCollum, CCR-NJ, RPR  
Official Court Reporter  
Cherilyn\_McCollum@paed.uscourts.gov

Proceedings taken stenographically and prepared utilizing  
computer-aided transcription

1 APPEARANCES CONTINUED:

2  
3 FOR THE CONSUMER FINE, KAPLAN AND BLACK, RPC  
4 PLAINTIFFS: BY: ROBERTA D. LIEBENBERG, ESQUIRE  
5 BY: GERARD A. DEVER, ESQUIRE  
6 One South Broad Street, Suite 2300  
Philadelphia, PA 19107  
(215) 567-5872  
rliebenberger@finekaplan.com  
gdever@finekaplan.com

7  
8 FOR THE CONSUMER NUSSBAUM LAW GROUP, PC  
9 PLAINTIFFS: BY: LINDA P. NUSSBAUM, ESQUIRE  
10 1133 Avenue of the Americas, 31st Floor  
New York, NY 10036-6710  
(917) 438-9189  
lnussbaum@nussbaumpc.com

11  
12 FOR THE CONSUMER SHUB & JOHNS, LLC  
13 PLAINTIFFS: BY: BENJAMIN F. JOHNS, ESQUIRE  
14 Four Tower Bridge  
200 Barr Harbor Drive, Suite 400  
West Conshohocken, PA 19428  
(610) 477-8380  
bjohns@shublawyers.com

15  
16 FOR THE DEFENDANT MORGAN LEWIS & BOCKIUS, LLP  
17 WAWA, INC.: BY: GREGORY T. PARKS, ESQUIRE  
2222 Market Street  
Philadelphia, PA 19103  
(215) 963-5000  
gparks@morganlewis.com

20  
21 FOR THE OBJECTOR HAMILTON LINCOLN LAW INSTITUTE  
22 THEODORE H. FRANK: CENTER FOR CLASS ACTION FAIRNESS  
BY: ADAM E. SCHULMAN, ESQUIRE  
1629 K Street, NW, Suite 300  
Washington, DC 20006  
(610) 457-0856  
adam.schulman@hlli.org

23  
24  
25

1 ALSO PRESENT:

2 CHRISTIAN LEVIS, ESQUIRE  
3 LOWEY DANNENBERG, PC

4 GARY F. LYNCH, ESQUIRE  
5 LYNCH CARPENTER, LLP

6 JEANNINE M. KENNEY, ESQUIRE  
7 HAUSFELD, LLP

8 MINDEE J. REUBEN, ESQUIRE  
9 LITE DePALMA GREENBERG & AFANADOR, LLC

10 THEODORE F. FRANK, OBJECTOR

11 - - -  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 (Call to order of the court.)

2 THE COURT: Hi, everybody. Take your seats. Good  
3 afternoon.

4 All right. This is a gathering in the consumer track  
5 case in the In Re Wawa Data Security Litigation docketed  
6 19-6019. Let's start out by taking attendance.

7 MR. JOHNS: Good afternoon, Your Honor. Ben Johns for  
8 the consumer plaintiffs.

9 MS. NUSSBAUM: Good afternoon, Your Honor. Linda  
10 Nussbaum for the consumer plaintiffs.

11 MS. LIEBENBERG: Good afternoon, Your Honor. Bobbi  
12 Liebenberg for the consumer plaintiffs.

13 MS. SAVETT: Good afternoon, Your Honor. Sherrie  
14 Savett for the consumer plaintiffs.

15 MR. PARKS: Hello, Your Honor. Greg Parks, Morgan  
16 Lewis, for defendant Wawa, Inc.

17 MR. SCHULMAN: Good afternoon. Adam Schulman for  
18 objector Theodore Frank, and, per the Court's instructions, I  
19 have Mr. Frank with me.

20 THE COURT: Great. Welcome.

21 Anybody else want to get their presence noted here?

22 MR. LYNCH: Hi, Your Honor. Gary Lynch for the  
23 financial institution plaintiffs. It sounds like you called  
24 the consumer case first.

25 THE COURT: Everybody is welcome.

1 MR. LYNCH: We're here.

2 MS. REUBEN: Good afternoon, Your Honor. Mindee  
3 Reuben for the financial institutions.

4 THE COURT: Nice to see you.

5 MS. REUBEN: Nice to see you, Your Honor.

6 THE COURT: It's nice to see everybody. I haven't  
7 seen Ms. Reuben for a while.

8 MS. KENNEY: Hello, Your Honor. Jeannine Kenney for  
9 the financial institutions.

10 MR. LEVIS: And Christian Levis for the financial  
11 institutions.

12 THE COURT: Anybody else?

13 Anybody here from the Third Circuit? Just want to know.  
14 Anybody willing to disclose themselves?

15 I thought over and over again about what we're going to  
16 do here today, and I frankly don't know that I've come up with  
17 anything particularly insightful, so I think I will start out  
18 by asking Mr. Frank's attorney what he believes is accomplished  
19 and what do you think we need to do.

20 MR. SCHULMAN: Your Honor, would you like me to --

21 THE COURT: Whatever you think is appropriate.

22 MR. SCHULMAN: I'm happy to approach the podium.

23 THE COURT: If you are happy, I'll be happy.

24 MR. SCHULMAN: Well, we think that with the vacation  
25 of the fee award, under the terms of the settlement, the

1 settlement for the consumer track is still in place. Because  
2 of the third amendment, we withdrew our objection to the  
3 settlement itself. The Third Circuit vacated this Court's fee  
4 award for reconsideration of the reasonableness in light of the  
5 amounts actually claimed by the class. That's how we read the  
6 opinion.

7 We're happy to brief further for Your Honor if you wish  
8 to do that. We had a call last week with the class counsel  
9 and --

10 THE COURT: Do you think they are standing too far  
11 apart or too close together?

12 MR. SCHULMAN: The class counsel?

13 THE COURT: And the defense counsel.

14 MR. SCHULMAN: In terms of --

15 THE COURT: We don't want any collusion here, do we?

16 MR. SCHULMAN: We didn't use the word "collusion" in  
17 our briefing. It's public record. We never used the word  
18 "collusion." It's conflict of interest.

19 THE COURT: What do you think the conflict is? I  
20 really am serious when I say I want to know what it is, because  
21 I truly think all of the appropriate considerations were  
22 addressed, some that didn't even make it into the Third Circuit  
23 opinion, and so I'm curious to know what it is we next ought to  
24 do from your perspective.

25 MR. SCHULMAN: Well, I think there's two main

1 considerations. I would put them in two large buckets first.  
2 The Third Circuit obviously was somewhat concerned with the  
3 fact that this Court --

4 THE COURT: The panel.

5 MR. SCHULMAN: The Third Circuit panel, right, was  
6 somewhat concerned with the fact that this Court had concluded  
7 that the constructive common fund was the full amount made  
8 available even though less than that was claimed. That's  
9 number one. Number two, it seemed concerned about the clear  
10 sailing and kicker provisions of the settlement. And as we  
11 argued before, Your Honor ruled that the fact that they removed  
12 the kicker provision was, in fact, a welcome change, as the  
13 Third Circuit said, but it did go to the quality and efficiency  
14 of the representation.

15 THE COURT: Let me ask. This is part of the practical  
16 issue that I see. How many things that are discussed in  
17 negotiating a settlement must either be disclosed or confessed?  
18 Those of you who might have experienced confession in your  
19 youth might recognize this concept. But there are things that  
20 are negotiated that are then negotiated out of a deal, and yet  
21 what I read in this opinion is all of that must be confessed in  
22 order to know what the net result is. I don't quite understand  
23 how that works.

24 How do you envision that?

25 MR. SCHULMAN: Well, I think part of it is the

1 attorney fee award is a fundamental component of the class  
2 action settlement proceeding. That's why you see the  
3 paragraphs that the panel spent walking through the history of  
4 23(h) and the equitable practice before that.

5 THE COURT: For example, let's say in negotiating any  
6 case, it doesn't matter whether it's a rear-end collision or  
7 something like this or, you know, price fixing of eggs, just to  
8 give some acknowledgement, there are many things discussed and  
9 rejected in negotiating, and yet, according this opinion, all  
10 of that has to be flyspecked in order to see what has  
11 legitimately been negotiated out of a deal. How does that  
12 work?

13 MR. SCHULMAN: Well, I don't think that that is the  
14 best interpretation of the opinion. I don't think that it's --  
15 I think that the opinion, as long as there is arm's length  
16 negotiation, you can trust the parties to get to the right --

17 THE COURT: I can't trust the parties with anything  
18 here according to this.

19 By the way, I meant to mention Judge Welsh says hello to  
20 everybody.

21 MR. SCHULMAN: Well, I don't think that the decision  
22 casts doubt on the total amount that was reached. The arm's  
23 length negotiation ensures that the total sum, the 6.2 million  
24 constructive common fund, is an adequate amount, but the  
25 inherent conflict of interest is why the Court needs to look



1 into the allegation --

2 THE COURT: What's the conflict of interest?

3 MR. SCHULMAN: It's the principal agent conflict  
4 between class counsel and their clients, the class members.  
5 Because every dollar the defendant is willing to put up has to  
6 go --

7 THE COURT: How do you know that?

8 MR. SCHULMAN: That's just an -- you know, it's the  
9 economic reality that Judge Becker has talked about in --

10 THE COURT: You are speaking of the dollars as  
11 fungible.

12 MR. SCHULMAN: Right.

13 THE COURT: Maybe the dollars are not fungible. Maybe  
14 when there is principle involved, l-e, not everything is  
15 principal, a-l. Or the reverse, perhaps.

16 MR. SCHULMAN: Well, here I would say that's not the  
17 case because Wawa agreed to get rid of fee segregation. We  
18 showed that every dollar made available they were willing to  
19 give to the class when they removed the reversion in our Third  
20 Amended Settlement.

21 THE COURT: How do you know that?

22 MR. SCHULMAN: I mean, that's just -- because they  
23 were willing to do it.

24 THE COURT: How do you know that?

25 MR. SCHULMAN: I mean, what do you mean how do I know

1 that? They agreed to it. We stipulated to it. It's on the  
2 docket, Your Honor, that they, you know, settled. So for them  
3 the amount, you know, that's -- if Your Honor wants to make a  
4 finding otherwise --

5 THE COURT: No, no. What I truly want is what you  
6 think is the roadmap now.

7 MR. SCHULMAN: Oh, what we do now. Well, we can  
8 submit further briefs if Your Honor --

9 THE COURT: The last thing I need is further briefs.

10 MR. SCHULMAN: I mean, we have had some  
11 correspondence --

12 THE COURT: I want a practical roadmap.

13 MR. SCHULMAN: We've had some correspondence about  
14 whether there could be a negotiated resolution between what we  
15 think is the reasonable fee -- we suggested in our last filing  
16 of 25 percent -- and what they suggested of the full 3 million,  
17 3-point-some-odd million.

18 THE COURT: What do you do with the value of the  
19 injunctive relief, which, of course, there is no reference to  
20 in this Third Circuit opinion? Which astonishes me, frankly.

21 MR. SCHULMAN: So the value of the injunctive relief,  
22 under precedent, can go to award 30 percent rather than  
23 25 percent.

24 THE COURT: Where is that formula?

25 MR. SCHULMAN: *Staton v. Boeing* is the case that --

1 THE COURT: And therefore what?

2 MR. SCHULMAN: Well, I don't want to reveal our  
3 settlement negotiations with chance counsel --

4 THE COURT: Everybody is supposed to reveal their  
5 negotiations according to this. Nothing is off-limits anymore,  
6 is it? I need a full list of everything you all have discussed  
7 and the resolution of it in order to be satisfied that there is  
8 no collusion. How do I know there's no collusion with you?

9 MR. SCHULMAN: So I think they used the word  
10 "collusion," but I think that was shorthand for this  
11 conflict-of-interest problem.

12 THE COURT: It's fairly short shrift, is it not?

13 MR. SCHULMAN: Yeah, it's really a semantic problem.  
14 We've seen other courts use the word "collusion" when I don't  
15 really think that they are talking about --

16 THE COURT: Not in my cases. I went through a very  
17 thorough review here, and I want to now what do we do.

18 MR. SCHULMAN: Well, we are not asking for discovery  
19 into those negotiations, if that's what you are getting at.

20 THE COURT: I'm not getting at anything. I want to  
21 know what you are getting at.

22 MR. SCHULMAN: I mean, maybe it would help you to hear  
23 where the plaintiffs' stand on the question of -- because we've  
24 proposed them an offer what we think would be a fair  
25 resolution, and I haven't heard back from them.

1 But we're happy to brief the question further. We  
2 didn't ask for discovery of the negotiations. We take --

3 THE COURT: If you were going to brief something, what  
4 is it, pray tell, would you be briefing?

5 MR. SCHULMAN: The impact of the Third Circuit's  
6 decision --

7 THE COURT: That's why we're here today.

8 MR. SCHULMAN: -- on the award of fees.

9 THE COURT: That's why we are here.

10 I think your client is speaking to you.

11 MR. SCHULMAN: Do you want to ask the Court?

12 He's more than competent for you to address him.

13 THE COURT: No. I literally want to know what you and  
14 the other lawyers have discerned we're supposed to do now.  
15 Because for sure I have every confidence that this was a  
16 properly negotiated result. I have every confidence that the  
17 lawyers involved in this case have to a person been honorable,  
18 forthcoming, and respectful of their clients' interests.

19 I want to know, in truth and in good faith, what it is  
20 that you actually think is supposed to be done. Am I supposed  
21 to bring everybody up here and make them swear that they didn't  
22 collude?

23 MR. SCHULMAN: No. I really do think that was just  
24 semantic shorthand for the issue of considering these conflict  
25 of interests, the fact --

1           THE COURT: What are the conflicts? I still don't  
2 know.

3           MR. SCHULMAN: The inclusion of the clear sailing and  
4 kicker provision in the initial settlement. Those serve class  
5 counsels' interests --

6           THE COURT: If those words were ever used, how can  
7 they be taken back? That's what's so difficult.

8           MR. SCHULMAN: You mean the "collusion" word, Your  
9 Honor?

10          THE COURT: The clear sailing. Okay, talk about  
11 shorthand, that is a shorthand term. And if that was ever  
12 used, that can't be returned from the atmosphere, can it? So  
13 now what I do with that?

14          MR. SCHULMAN: In our view, that bears on the quality  
15 of the representation. The efficiency of the representation  
16 needs to be taken into account at the fee-setting stage.

17          THE COURT: How do I do that, that I haven't already  
18 done, or that Judge Welsh hasn't already done?

19          MR. SCHULMAN: I don't know if Judge Welsh considered  
20 what was a reasonable fee. I don't recall Judge Welsh stating  
21 that she did.

22          THE COURT: Well, I'm pretty sure she was involved in  
23 the overall negotiating of the settlement.

24          MR. SCHULMAN: That's fair. And our position would be  
25 that --

1 THE COURT: I'm glad that's fair.

2 MR. SCHULMAN: -- it's a nondelegable duty of this  
3 Court to review fees. I think that Third Circuit opinion is  
4 clear at least on that much.

5 THE COURT: So other than you briefing something, what  
6 else do you think needs to be done?

7 MR. SCHULMAN: Well, like I said, we had  
8 correspondence with class counsel.

9 THE COURT: Well, you don't need me for you to talk to  
10 them about what you want them to respond to.

11 MR. SCHULMAN: I agree with that, and I didn't ask for  
12 you to hold this hearing, so we're here and I brought my client  
13 per the Court's request.

14 THE COURT: Well, you are the operating party here.  
15 It's his appeal and you are his spokesperson.

16 MR. SCHULMAN: Yes.

17 THE COURT: So as I understand it, given the fact that  
18 we're in football season, you are lateraling to the plaintiffs'  
19 lawyers. You want me to talk to them now.

20 MR. SCHULMAN: Well, you can ask them what their  
21 position is. We did correspond with them about a potential  
22 briefing schedule, if Your Honor wants briefing.

23 THE COURT: How many times have I said I wanted  
24 briefing?

25 MR. SCHULMAN: None. We were not -- nobody was aware

1 of what you were going to ask for, so we were just being  
2 prepared.

3 THE COURT: All right. Why don't you take a seat.  
4 Anybody else want to offer any perspectives?

5 MS. SAVETT: May I, Your Honor?

6 THE COURT: Sure.

7 What do you think I should be doing?

8 MS. SAVETT: We think that Mr. Schulman has completely  
9 misconstrued what the Third Circuit said. The Third Circuit  
10 instructed the Court to consider two issues on remand. The  
11 first one is --

12 THE COURT: Reasonableness of the fee award and  
13 apportionment of the benefit and the presence of side  
14 agreements. Those are two things.

15 MS. SAVETT: That's right. Thank you.

16 THE COURT: I thought I had done both of those things,  
17 so what am I supposed to do now?

18 MS. SAVETT: We thought so, too. But the Third  
19 Circuit remanded it for a more fully developed factual record  
20 with respect to the alleged or purported clear sailing and  
21 reverter issues, and we can provide that, but we want to give  
22 you a short outline of what we're going to say.

23 Our proposal is to submit declarations dealing with the  
24 purported clear sailing and reverter issues, which we think  
25 neither was present.

1 THE COURT: This is the confessional part.

2 MS. SAVETT: The Court of Appeals -- and another  
3 misconception, we believe, of Mr. Schulman is that the Court  
4 of Appeals repeatedly emphasized that the determination of  
5 reasonableness of the fee award is within the Trial Court's  
6 discretion. They said it at least four times: on pages 10,  
7 16, 21, and 19. And the Court rejected objector's argument for  
8 the adoption of a per se rule for the reasonableness of a fee  
9 award that it should be based solely on the amounts claimed by  
10 class members. And, in fact, it was briefed greatly, and Your  
11 Honor considered it all, but the Third Circuit law is very  
12 clear that the opposite is usually accepted in the Third  
13 Circuit, which is that you look at what was offered to the  
14 class, not just what was claimed. But he believes that -- he  
15 stated that the Court made a per se rule that you can only look  
16 at the claims that were actually made, and that's just not what  
17 the Court said at all. The Court said that -- and I'm quoting  
18 from the opinion of the Third Circuit -- Courts can evaluate  
19 the reasonableness of a percentage-based award by reference to  
20 either amounts paid or amounts made available.

21 So this Court has discretion to decide what is the  
22 proper way to look at reasonableness, between those two  
23 options. And the offers that have been made to us are only  
24 based on the option of counting the claims that were made, and  
25 they are not acceptable to us.



1           The Court also stressed the determination of which  
2   approach to use remains with the District Court, at page 19.  
3   And as Your Honor just pointed out, the injunctive relief is  
4   particularly valuable here because many of Wawa's customers are  
5   repeat loyal customers --

6           THE COURT: One of the things I find -- well, I guess  
7   the Third Circuit's words were they found things bewildering.  
8   One of the things that I am bewildered by, having spent many  
9   years, actually, working on the rules committee where we talked  
10   about revising Rule 23, both to deal with objectors and what to  
11   do with objectors and the so-called holdups there, but also  
12   valuing the concept of settlement classes and valuing  
13   injunctive relief. There are many, and I know I'm not telling  
14   you now, but I am telling somebody, that there are many class  
15   actions that focus principally on injunctive relief, many, and  
16   they are valuable, and they only come about as a result of hard  
17   work by lawyers on both sides.

18          MS. SAVETT: Well, we appreciate that so much that you  
19   said it, Your Honor.

20          THE COURT: That's what bewilders me.

21          MS. SAVETT: We hired an expert to help us to analyze  
22   what was wrong with their system, how they could improve it,  
23   how it could be supervised in the future. This was a major  
24   benefit. And you said it better than I can say it. I want to  
25   just read your words from the preliminary approval decision on

1 this point. You said: The settlement provides class members  
2 with an immediate tangible benefit in the form of a Wawa gift  
3 card and, in addition, to improve security when using a payment  
4 card at Wawa. I mean, that was one of the most significant  
5 parts of the settlement.

6 THE COURT: In fairness, I do understand why gift  
7 cards are a little bit of a --

8 MS. SAVETT: They are not exactly cash, but they --

9 THE COURT: People get excited by gift cards. I  
10 understand that. I'm really focused on the practices that were  
11 put into place.

12 MS. SAVETT: And also the fact that we had it as a  
13 mandate in the settlement that there were going to be audits  
14 and that they had to be enforced for two years.

15 THE COURT: If I were to go through this -- these  
16 machinations and create a formula, what would you be giving me  
17 in the terms of what you or Wawa's counsel are giving me to  
18 plug into the formula to value the injunctive relief?

19 MS. SAVETT: Not everything can be done by a  
20 mathematical formula. And the idea that every single Wawa  
21 customer, and mostly repeat customers who are in our class, is  
22 going to go to the gas station or buy their goods and not be  
23 afraid that their card will be stolen, it clearly has a value.

24 And then you have to look at it in light of all of the  
25 other reasonableness factors, which you did look at. I mean,

1 you looked at the percentage, you looked at what was offered,  
2 you looked at what was the claims rate compared to other data  
3 breach cases. You did a very, very thorough analysis of  
4 reasonableness.

5 THE COURT: So what am I supposed to do now?

6 MS. SAVETT: Well, I think, for one thing, you have  
7 the discretion. And that's clear. And you have your choice of  
8 what you think is the better way to look at the benefit here.  
9 Is it by what was offered to the class or what was claimed?

10 And then on the last point, Bobbi Liebenberg is going to  
11 address these purported side agreements and reverters which  
12 don't even exist and never did, but just putting --

13 THE COURT: But now you got to pretend they did, so  
14 now you have to confess them.

15 MS. SAVETT: I don't have anything to confess, because  
16 the agreement was absolutely silent -- I don't want to take  
17 away Bobbi's argument, but it didn't say anything about a  
18 reverter to the defendant's counsel, at all. And so I will let  
19 Bobbi handle those issues.

20 But I want to get back to your question about what  
21 should be the formula and what should we do now. So, first of  
22 all, you have to clear away the dust about the so-called side  
23 agreements and reverters. But then, looking at the valuation  
24 of the settlement, you look at all the reasonableness factors,  
25 most of which you already looked at. But one of them that the

1 courts didn't even consider in the Third Circuit is any value  
2 to the injunctive relief.

3 THE COURT: That's why I asked. How do I value that?  
4 How do I plug that into the formula?

5 MS. SAVETT: I think you plug it in just by common  
6 sense. That there were hundreds of thousands of Wawa customers  
7 in that class -- there were 22 million, actually -- and most of  
8 them go back to Wawa all the time and they don't have to worry  
9 about their card experiencing a fraud because Wawa really,  
10 really had to make major changes, \$35 million of changes. And  
11 the other factor that is really important about our settlement  
12 is we made it enforceable by the Court. For two years there  
13 will be audits and they have to ensure in writing that they  
14 complied and that they test their procedures and it's still  
15 working well to protect consumers.

16 Now, I can't give you a number how you evaluate that,  
17 but it's clearly a benefit.

18 THE COURT: Maybe Wawa could tell me what it cost them  
19 to put all this in place.

20 MS. SAVETT: Well, we know that. That's in the  
21 record. \$35 million.

22 THE COURT: Well, it is apparently not in the record  
23 clear enough.

24 MS. SAVETT: Well, we can certainly put in some  
25 further declarations on that.

1 THE COURT: I thought it was clear, but --

2 MS. SAVETT: I thought that it was actually in the  
3 papers about the 35 million. But we can put in factual  
4 declarations that would support all the benefits of the  
5 injunctive relief. That's one step that I think that we could  
6 take concretely.

7 THE COURT: Well, it occurs to me, although this may  
8 sound facetious, but one of the things I was thinking of is  
9 assigning you each a different century to research.

10 MS. SAVETT: Please don't do that.

11 THE COURT: Well, I was going to ask you, which  
12 century would you like, the 12th century or the 14th or the  
13 18th?

14 MS. SAVETT: I don't think you expect an answer to  
15 that.

16 THE COURT: Well, it seems to be an interesting topic  
17 to consider.

18 MS. SAVETT: By the way, one other factor when you did  
19 your reasonableness analysis, and I think you already did it so  
20 thoroughly, is the fact that we, as lead counsel, who worked  
21 very hard on this case, gave up 25 percent of our time when we  
22 even made the application, and we were still negative by  
23 point -- negative 78 percent, and now with two more years since  
24 the settlement and appeal and everything else, it's super  
25 negative, probably down to minus 50 percent.

1 THE COURT: That part I don't know.

2 MS. SAVETT: But those are facts that we can say.

3 And I do think it's important for my colleague Bobbi  
4 Liebenberg to go through each one of these two accusations  
5 about a purported side agreement and a reverter, or more  
6 nefariously, as Mr. Schulman puts it, a kicker, none of which  
7 existed. So I would like to yield to my colleague Bobbi.

8 Thank you.

9 THE COURT: Not to suggest anything -- I mean, I  
10 understand, I respect the notion that everybody has got an axe  
11 to grind here, but I am earnest in saying that I truly do not  
12 know what is missing from the evaluation of this record,  
13 because of my routine. I mean, not to mean that I'm only a  
14 routine follower, but this is pretty straightforward as an  
15 evaluation, and I don't think there was anything material that  
16 was missed. And so I am earnestly asking what anybody thinks  
17 needs to be done now. Not make work, not, you know, just for  
18 fun, not looking for evilness that doesn't exist. I have seen  
19 nothing in this case to make me think that this wasn't an  
20 honorable, hard-fought resolution of a case. Perhaps you  
21 should have been fighting longer, perhaps we shouldn't have  
22 ended this as quickly as we did, perhaps it should not have  
23 been as economical as it was, perhaps it should not have been  
24 as efficient, and then perhaps it wouldn't have been -- the  
25 result wouldn't have been vacated. I honestly don't know. So

1 I want to know your best efforts, all counsel, of what needs to  
2 be done now.

3 MS. LIEBENBERG: I absolutely agree, Your Honor. One  
4 thing we would want, I will tell you, is that we need a  
5 finding --

6 THE COURT: That is probably the safest thing, to tell  
7 me you agree with me. I do really want to know.

8 MS. LIEBENBERG: I can tell you in terms of what we  
9 know, and that is a finding that there was no side agreements,  
10 that there was no collusion, because there was none. This  
11 negotiation of the settlement was hard-fought, it was in good  
12 faith, it was done under the auspices of Magistrate Judge  
13 Welsh. We were glad to hear Mr. Schulman say they are not  
14 arguing that there was no collusion, but with respect --

15 THE COURT: They are not arguing there wasn't  
16 collusion.

17 MS. LIEBENBERG: Yes, that they are arguing there was  
18 collusion.

19 With respect to the purported clear sailing agreement,  
20 we think it's important to really look at the paragraph 78 of  
21 that agreement, because, in fact, it is not a clear sailing  
22 agreement if you look at the language. All paragraph 78  
23 required was that Wawa shall cooperate with class counsel, if  
24 and as necessary, in providing information class counsel may  
25 reasonably request from Wawa in connection with preparing the

1 petition. There is no language in paragraph 78 where Wawa  
2 agrees that it would not contest the fee, that it would not  
3 object to the fee, and it's not even within the definition of a  
4 clear sailing agreement as defined by the Third Circuit in its  
5 own opinion at pages 7 to 8 at Note 3 where it says: A clear  
6 sailing agreement in a class action settlement means defendants  
7 agree not to contest class counsel's request for attorney's  
8 fees up to an agreed amount.

9 THE COURT: Where did that come from?

10 MS. LIEBENBERG: I'm not sure, Your Honor. If you  
11 look at that paragraph, and we can do findings of fact that  
12 make that very clear, paragraph 78 was merely a cooperation  
13 provision that was intended to require Wawa to provide  
14 information concerning the scope and the value of the relief,  
15 including the value of the injunctive relief.

16 THE COURT: One of the things that I find bewildering  
17 about what to do now is -- and lawyers who work with me fairly  
18 frequently know that I am by no means a, you know, a devoted --  
19 a devotee of settlements. I'd rather have trial, frankly. But  
20 the idea -- those people who do like settlements want there to  
21 be cooperation. They want to eliminate controversy. They want  
22 to eliminate more fighting. So I find there to be some  
23 disconnect, and that's why I'm befuddled and bewildered --  
24 sounds like a song, an old song.

25 Are we supposed to reserve more acrimony as part of a,



1 quote, settlement? It's a peculiar irony.

2 MS. LIEBENBERG: I agree, Your Honor. But what's  
3 interesting, if you look at what happened in this case, counsel  
4 for Wawa did provide cooperation in terms of giving us  
5 information that was relevant to the reasonableness of the fee.  
6 Mr. Parks provided a declaration with respect to the injunction  
7 component, which is what Ms. Savett was referring to, in terms  
8 of why these enhanced security features were particularly  
9 important for a repeat customer base, and that was additional  
10 information that counsel for Wawa provided with respect to,  
11 yes, the value of the gift cards, the fact that within the last  
12 two years gift cards had a 97 percent usage rate, the number of  
13 products that could be purchased for five dollars or less.  
14 That was information that all went to the reasonableness of the  
15 fee, and that was consistent with paragraph 78, which, as I  
16 said, was a cooperation provision. It was not -- you can  
17 search. There is no language in paragraph 78 where Wawa said  
18 it would not object or that it would not contest the fee.

19 And then turning to the so-called kicker, I think this  
20 is another area where we would like a strong finding, because  
21 it is important to emphasize that the parties did not intend,  
22 we didn't discuss, we didn't agree that there would be a  
23 reversion of the fees if the Court didn't award the full  
24 amount.

25 THE COURT: The weird thing here is, I'm trying to

1 envision a settlement, either a preliminary hearing or a final  
2 settlement approval, where I have a laundry list to go through  
3 and force people to say they did not discuss everything.

4 MS. LIEBENBERG: Right.

5 THE COURT: It's a peculiar vision that seems to be  
6 out there. That's why I say earnestly I want to know what you  
7 all think needs to be done now in order to have a settlement  
8 that is -- where the filigree is acrimony.

9 MS. LIEBENBERG: I'm not sure, Your Honor, to respond  
10 to the Third Circuit analysis, but it seems to me that it is  
11 clear, that, you know, we can provide these types of findings  
12 that would, if, in fact -- hopefully there is never another  
13 appeal -- it went up again, that the Third Circuit would have  
14 record to show, yes, there were no side agreements.

15 THE COURT: It seems to me that the issue here is the  
16 only way you all will know -- it doesn't matter to me whether  
17 there's an appeal or not. I've got work to do one way or  
18 another -- but the only way you are all going to know that is  
19 if you reduce your fee. I mean, that -- that -- not to be too  
20 practical about it, but that seems to be where the rubber meets  
21 the road.

22 MS. LIEBENBERG: Well, Your Honor, we believe you  
23 still have the discretion to go back and review this, and we  
24 believe those factors still support the original fee and  
25 certainly not what is contemplated by Mr. Frank.

1           THE COURT: I mean, he's entitled. He's a class  
2 member. He can object, you know, as long as it's within the  
3 rules and Rule 23 and whatever additions, changes that have  
4 been made to that. Although it is, just as a matter of  
5 interest, it was the attention of a very large collection of  
6 people to evaluate -- I don't want to be pejorative about  
7 this -- to evaluate demands being made by objectors as a way of  
8 pacifying objectors to allow for settlements to go forward in  
9 class actions. That is another irony. It doesn't belong in  
10 this case, of course. I'm not suggesting that's what happened  
11 here, nor am I suggesting there was any collusion among counsel  
12 in this case. I think everybody is as clean as the driven snow  
13 here, should we have snow here this winter.

14           All right. So what you are suggesting, Ms. Liebenberg,  
15 is that each of the lawyers would sign an oath that they did  
16 not engage in any untoward discussion with each other, that you  
17 harbored no evil thoughts, that you had no discussions, that  
18 you didn't exchange tit for tat or whatever. I have no formula  
19 for --

20           MS. LIEBENBERG: I think that's important. And I  
21 think it's also important, as Ms. Savett alluded to, paragraph  
22 77 of the earlier version of the settlement agreement was  
23 merely a factual recitation that we were going to put in a fee  
24 petition, we were going to ask for service awards, we were  
25 going to ask for expenses. It never addressed what would

1 happen if the Court awarded less. The agreement was silent.  
2 And so because the agreement was silent, it was later -- it was  
3 later clarified in the Third Amended Settlement Agreement to  
4 explicitly provide that if the Court awarded less than the  
5 3.2 million those funds would go to Tier 1, Tier 2 class  
6 members who were getting gift cards.

7 THE COURT: What you're saying is there is no  
8 assurance that that's what would happen at all.

9 MS. LIEBENBERG: It was silent prior, in the earlier  
10 version. But I think it's also important that in the  
11 objector's two briefs in the Third Circuit and in the brief  
12 before this Court, after the Third Amended Settlement Agreement  
13 was executed, there was no argument made that the Third Amended  
14 Settlement Agreement was a product of collusion because in a  
15 prior version the prior paragraph 77 existed. You know, there  
16 is -- somehow the Third Circuit wanted, as you said, to look  
17 back and see whether or not that somehow tainted the agreement.

18 THE COURT: Well, to think about how to do that.

19 MS. LIEBENBERG: Yes. Well, there was none and  
20 they've never raised it. It was never raised on appeal.

21 So we do think that there are some issues that can be  
22 clarified by declarations, and we do believe the Court has  
23 discretion to review the fee and I think, again, amplifying the  
24 record, you know, all of the factors that the Court considered  
25 properly in determining that fee.

1           THE COURT: Have you and the objector's counsel  
2 discussed the substance or the topics that should be addressed?  
3 I don't want to hear about dollar amounts. That's frankly too  
4 crass, because I don't know what the right dollar amount is. I  
5 know what the right material terms are. I know what the right  
6 qualitative, but I haven't heard from anybody here how I turn  
7 qualitative into quantitative.

8           MS. LIEBENBERG: No, we have not discussed what the  
9 formula would be to look at that. We did discuss some of these  
10 issues with respect to our sort of anger about this issue about  
11 that there were -- you know, that it's been characterized as  
12 side agreements, to tell you the truth.

13           THE COURT: Well, according to Mr. Schulman, those  
14 were just the Court of Appeals' unfortunate use of terms.

15           MS. LIEBENBERG: We took it pretty personally.

16           THE COURT: Well, yes. I can't speak for them.

17           MS. LIEBENBERG: Thank you, Your Honor.

18           THE COURT: All right. Let me hear from Wawa's  
19 counsel. I don't want to keep you from enjoying this.

20           MR. PARKS: Good afternoon, Your Honor. Greg Parks  
21 for Wawa.

22           Wawa actually does not have an axe to grind here. We  
23 don't have a lot at stake on this because the award of  
24 attorney's fees comes out of our pocket, those dollars don't  
25 come back -- I'm sorry. What's that?

1 THE COURT: You were not a colluder?

2 MR. PARKS: We were definitely not a colluder, Your  
3 Honor, and happy to put in some facts to that effect, but I am  
4 counsel of record in this case and do have an interest in  
5 moving it forward.

6 So, like you, I have read and reread the Third Circuit's  
7 opinion to try to figure out exactly the question you've asked,  
8 which is, now what? And I think from my perspective the "now  
9 what" is two pieces, as we've all kind of acknowledged. The  
10 first piece is looking at the amount of the fee award relative  
11 to either the amount claimed or the amount made available and  
12 to make it clearer, although I think your original opinion was  
13 pretty clear on this point, but I think the Third Circuit  
14 disagreed and felt like you thought you were constrained to  
15 only look at the amount made available and you didn't think you  
16 were allowed to look at the amount claimed. And I think a  
17 revised opinion from this Court could make it clear that there  
18 were a number of factors that caused Your Honor to decide --

19 THE COURT: I always have to say -- I'm not normally  
20 accused of being sheepish.

21 MR. PARKS: No, I wouldn't have thought.

22 So but I think you could say there are a number of  
23 factors that caused Your Honor to decide to look at the amount  
24 made available, and those factors could include things like the  
25 injunctive relief. So I think as you struggle with how do I

1 value that \$35 million --

2 THE COURT: This is my frustration. The injunctive  
3 relief was considered initially and it appears nowhere in the  
4 circuit opinion.

5 MR. PARKS: I agree. It should have gotten more  
6 weight in the analysis.

7 THE COURT: It has value. It has tremendous value.

8 MR. PARKS: And Wawa agrees and Wawa believed that was  
9 an important thing to do for our customers and an important  
10 part of the settlement. And I will vouch for the plaintiffs'  
11 lawyers, especially Mr. Ben Johns there, has hounded Wawa and  
12 me about getting all of the reports and the audits and the  
13 compliance statements and the affidavits and everything else  
14 that are called for in that settlement agreement. I can set my  
15 watch to the fact that Ben Johns will send me a reminder to get  
16 those things to him on time. So they've been very vigorous  
17 about that, and I think that's part of the reason why Your  
18 Honor can say, "I looked at the amounts made available."

19 In addition, I think it's appropriate, and the Third  
20 Circuit opinion sort of hints at this, that in exercising your  
21 discretion you can look at facts that are specific to this  
22 case. And the facts that are specific to this case is this is  
23 a data breach case, meaning that information got out. And for  
24 some people that might have meant something bad happened, a  
25 fraudulent charge appeared on their credit card --

1 THE COURT: This is why you have tiers.

2 MR. PARKS: This is why there are tiers. But I think  
3 it's also a factor in determining that because so many people  
4 were not harmed, the class counsel, what they really need to do  
5 was protect against the possibility that way more people that  
6 Wawa said were harmed were in fact harmed, and so they made  
7 available a larger amount of money in case that's the fact.  
8 And having done that, I think they deserve the credit for  
9 having made available that larger sum of money to kind of force  
10 Wawa to put its money where its mouth is. That we said, look,  
11 we don't think a lot of people were hurt here, but we are  
12 willing to put that forward and say if more people were hurt,  
13 it's going to cost us more money, we're going to have to send  
14 out more gift cards, we're going to have to do more things, and  
15 they put us to our paces on that. So I think that's where it's  
16 fair to consider the amounts made available rather than just  
17 the amounts claimed. And I think if Your Honor were to say on  
18 remand, "in my discretion, that's what I've decided to do," I  
19 think that would make it fairly unappealable, bulletproof,  
20 which I think is all in our best interest.

21 The second issue is then these so-called side  
22 agreements, which I agree with plaintiffs' lawyers that they  
23 were not side agreements. The Third Circuit characterized them  
24 that way, so we'll live with that. But I think if you then set  
25 that aside for a second and say, all right --



1           THE COURT: The practical question I have, this is not  
2 the last settlement that's ever going to happen either for you  
3 lawyers or for me or the Eastern District of Pennsylvania or  
4 the Third Circuit or Mr. Frank. What do you do with the next  
5 one? How do you guard against -- how do you prove a negative?

6           MR. PARKS: And you are right. You'd have to have a  
7 check list of 47 or many more things. But I think the way I  
8 read the panel's opinion here is when you have a case where an  
9 objector has pointed to a thing and said that's a clear sailing  
10 provision or that's a reverter or kicker, whatever label they  
11 want to call it, the Court has an obligation to go look at that  
12 and say, all right, let me scratch beneath the surface and peel  
13 the onion back a little bit and get at that. I think Your  
14 Honor's initial opinion did that, because you did talk about  
15 the reverter and it's gone now, and you did talk about the  
16 so-called clear sailing provision. But what I think the Third  
17 Circuit has said now is explore how those things arrived, what  
18 purpose they served, and whether their presence, even  
19 temporary, suggests coordinated rather than zealous advocacy.  
20 That's the language the Third Circuit closes with.

21           THE COURT: That's the part that I find a bit  
22 puzzling. Do I have to find out if -- how does one find out,  
23 how does a district court judge find out whether somebody's got  
24 a piece of dust in their eye or they are winking?

25           MR. PARKS: Right. I think those are the challenges

1 district court judges have all the time, right, is making  
2 factual findings.

3 THE COURT: Precisely. And is there yet another test  
4 for that?

5 MR. PARKS: No. I think if the Court were to take  
6 declarations, on which would could do a little bit more to help  
7 you with those questions, the exact things that the Third  
8 Circuit suggested you want to look into, you can then make  
9 findings, very similar to what you've said in this courtroom  
10 today, that you believe this was honest, hardworking,  
11 clean-as-the-driven-snow people on both sides not colluding and  
12 working hard to come to a settlement zealously advocating for  
13 their clients, I think you'll find that to be the case. And I  
14 think we can put in front of you things like when we were  
15 negotiating this settlement and the plaintiffs' lawyers had  
16 gotten us to agree to the amount that we were going to make  
17 available to the class and to agree to the injunctive relief  
18 and to agree to the evaluation of the injunctive relief at  
19 \$35 million. So I'm looking at \$35 million plus another  
20 \$9 million. I'm looking at possibly \$44 million that the  
21 plaintiffs' lawyers could say this is the value we created for  
22 the class. And when we were negotiating attorney's fees, I was  
23 frankly really worried they were going to ask for much more. I  
24 was worried that they were going to ask for \$10 million on a  
25 \$44 million total fund. So when we negotiated them down and

1 they agreed to a cap of 3.2, I thought we had done a really  
2 good job, we had gotten a good result for Wawa, a good result  
3 for the class, and I thought 3.2 was actually a really low  
4 number. And then they actually told us as part of the  
5 negotiations that that was almost a negative lodestar, that  
6 they were pretty much at that dollar amount in the time and  
7 effort that they had into the case, and then I was really  
8 worried. So I really felt like the 3.2 was a good number.

9 I will tell you honestly, I didn't think for a second  
10 there was a chance that the amount awarded would be less than  
11 3.2, so that's why we didn't put a provision in to that effect.  
12 We didn't address what would happen if the Court decided some  
13 number less than 3.2 was appropriate. And those are the sort  
14 of things we can put in declarations.

15 How we deal with that in future settlements, I think you  
16 have to kind of look at what an objector brings to the table.  
17 If an objector brings to the table, hey, here is a clear  
18 sailing, here is a reverter, here's a kicker, then there are  
19 certain kind of buzz words that the District Court has to say,  
20 all right, I guess I got to ask look into that, I got to ask  
21 for declarations, I got to ask for, you know, how did that  
22 little thing arrive or what did you negotiate, and I think  
23 that's not too abnormal. I think class counsel negotiating  
24 settlement agreements often find themselves in front of the  
25 Court on preliminary approval and final approval explaining

1 exactly those kind of things: Here was the negotiation. Here  
2 was the back-and-forth. Here is why we settled on a  
3 five-dollar gift card. That was product of back-and-forth  
4 negotiation.

5 THE COURT: Again, my frustration here is I have some  
6 distinct recollection of doing all this.

7 MR. PARKS: Absolutely, Your Honor. I agree, and  
8 sometimes you just need to do it again to show the teacher your  
9 homework, I guess.

10 Happy to address anything else, Your Honor.

11 THE COURT: No. I would like -- I still am in search  
12 of a roadmap. Maybe Mr. Frank's counsel has come up with  
13 something of what it is you all are supposed to now put on  
14 paper.

15 MR. PARKS: Yeah, I think what we had discussed  
16 amongst ourselves, and subject to the Court's approval, and  
17 I've heard Your Honor very clearly that you are not  
18 particularly excited about getting more briefs, but I think --

19 THE COURT: What would you brief?

20 MR. PARKS: I think we would say, all right, in light  
21 of the Third Circuit's opinion, you can now either consider the  
22 amounts claimed or the amounts made available, and here is how  
23 you ought to exercise that discretion, and here is what we  
24 think about that. I think we can brief that, and we can also  
25 put in declarations that address these -- explore how the

1 reversion and the kicker and the clear sailing, how those  
2 provisions arrived, what purpose they served, and whether the  
3 presence, even temporary, suggests coordinated rather than  
4 zealous advocacy, we can put in declarations that can make that  
5 easier for Your Honor than we have made that in the past. And  
6 I think we were talking about doing that in about two weeks and  
7 then exchanging responses to those things about a month later  
8 was our thought and proposal what we talked about amongst  
9 counsel, but of course --

10 THE COURT: Philosophically, though, I have two minds  
11 in this particular case. Number one, I would like you all to  
12 be able to put a lid on this case and finish it. I'm sure  
13 that's in everybody's interest. But I have also a  
14 philosophical concern about going forward and -- I don't like  
15 unnecessary -- I think it's bad for the profession, I think  
16 it's bad for the community to force acrimony, and that's one of  
17 my big problems here is when I look at this from the  
18 30,000-foot angle or height, that what I walk away with is the  
19 notion that there has got to be more fighting and more evidence  
20 of fighting, and I don't see how we get around that and have a  
21 civilized judicial system.

22 MR. PARKS: I agree with that, Your Honor, especially  
23 in a settlement context where the theory --

24 THE COURT: I don't even like settlements.

25 MR. PARKS: But the theory behind the settlement is

1 parties go at each other pretty hard for a long period of time,  
2 and we sure did. In advance of the mediation, we had a lot of  
3 discussions, some of them got heated, and then we had a  
4 mediation session that started at nine in the morning, went to  
5 about ten at night at which it was very adversarial. But once  
6 you reach that agreement, the theory ought to be we're all now  
7 working together for the best interest of the class to get this  
8 settlement done, get it approved, and get the benefits out to  
9 the class and do everything that we're supposed to do. And  
10 that's hard if you are still sniping with each other. I  
11 strongly agree with that.

12 THE COURT: The notion is you got to walk away still  
13 embittered.

14 MR. PARKS: That's right.

15 THE COURT: I don't quite get that.

16 MR. PARKS: And I would have to still be standing here  
17 complaining about the plaintiffs' lawyers and the amounts of  
18 time they spend on different things. I agree that that's not  
19 productive at this juncture or any juncture after you've  
20 reached a settlement.

21 THE COURT: It's not civilized.

22 MR. PARKS: I agree.

23 THE COURT: I mean, I'd much rather have a trial.

24 MR. PARKS: I'd love to try this case, Your Honor.  
25 Let's do it.

1           THE COURT: Except that that means that the litigants  
2 are no longer the captains of their ships, and that I think is  
3 philosophically the counterpoint.

4           MR. PARKS: Correct, Your Honor.

5           THE COURT: And so what I'm looking for is the -- as  
6 the harbormaster, if I may, I'm going to stick with the  
7 maritime metaphor a little bit, how do I guide the ship without  
8 it being, you know, the waves and the shoals and all of that  
9 stuff? You ought to be able to come to a conclusion on your  
10 own, but you also have to know under what terms will you  
11 actually be able to achieve that, and that's what I'm searching  
12 for here, help from you guys.

13           MR. PARKS: I agree. And I think as the harbormaster  
14 in this scenario, Rule 23 settlement some people would say you  
15 have the benefit of objectors who come forward and say there  
16 are shoals or there is a rock and there is this thing, and  
17 that's what Your Honor and the District Court ought to be  
18 focused on is those things that get raised to your attention by  
19 objectors --

20           THE COURT: Well, one would say you don't need  
21 objectors, the Court has the duty to the class.

22           MR. PARKS: That's correct. That's correct. But I  
23 think, like I said, the way I read the Third Circuit's opinion  
24 is, having received the suggestion that there was a reverter or  
25 that there was a clear sailing provision, it's the District

1 Court's duty to then look into that. And I think that's the  
2 thing that we can do now.

3 THE COURT: The other pejorative is to call whatever  
4 it is you all are doing a gimmick.

5 MR. PARKS: I agree. That was unfortunate. In Roman  
6 times they didn't do that.

7 THE COURT: Roman times it was just lions.

8 MR. PARKS: Correct. And lawyers all worked for free.

9 THE COURT: I was only going back to the 11th century.

10 MR. PARKS: Well, you'd have to go back further.  
11 Roman times you'd have to go back a whole lot more centuries.

12 THE COURT: Bad news. We're not going to do that.

13 MR. PARKS: I appreciate that.

14 THE COURT: I could pass out, you know, some sort of  
15 pieces of paper and you'd all have to draw what century. It  
16 would be fun, though. Write a good article.

17 MR. PARKS: I have 16-year-old twins who are studying  
18 world history this year. So we could assign them. They could  
19 use some more homework.

20 THE COURT: Then you have to read it to them or write  
21 it yourself.

22 MR. PARKS: Never.

23 THE COURT: Okay. All right. Let me go back to where  
24 I started. Anybody else have observations before I start  
25 again? No. Okay.



1 MR. SCHULMAN: I had a few comments.

2 THE COURT: Good. I'm sure you do.

3 MR. SCHULMAN: So I guess I'll begin with this idea of  
4 forced acrimony that Your Honor is resistant to. And of course  
5 we wouldn't call it forced acrimony. We call it reintroducing  
6 adversarialness. The clear sailing and kicker package together  
7 are bad because it deprives the Court of any adversarial  
8 process on the question of attorney's fees. Which in regular  
9 litigation maybe that's fine, that's good. You don't need a  
10 second major litigation if it was just bilateral litigation,  
11 but here you --

12 THE COURT: I don't mean to be sharp about this, but  
13 every case is special. This case is no more special than a  
14 rear-end collision. It still requires a proof of a fact. It  
15 still requires persuasion. I know that the lawyers who get  
16 involved in this kind of litigation seem to want to carve out  
17 specialness for themselves, but as far as I am concerned, the  
18 lesson I learned from a number of judges who came before me,  
19 ones there on the wall, is that every case is important to  
20 everybody. It doesn't matter.

21 MR. SCHULMAN: I certainly don't mean to disparage any  
22 individual case saying they're not important. All I am saying  
23 is that fees in a class action are different because there are  
24 absentees that are not in a bilateral litigation. Like in the  
25 rear-end collision, the plaintiff should be supervising their

1 own attorney. They can. They have a contract.

2 THE COURT: Unless they are a minor or an invalid or  
3 incompetent, in which case the Court is involved.

4 MR. SCHULMAN: Exactly. And in those situations clear  
5 sailing provisions should sound the alarm bell because it's  
6 depriving the Court of -- so in this case, obviously, we came  
7 in. We're an objector. We are not objecting in every case.  
8 There is not good objectors to come in in every case. The  
9 clear sailing provision deprives the Court of the adversarial  
10 process, the defendant's commentary on criticism of the field,  
11 the request, and I think that's exactly what the case law  
12 suggests the problem is. And so, you know, we wouldn't call it  
13 forced acrimony as much as reintroducing adversarialness. So  
14 that's point number one.

15 Number two is we agree with Mr. Parks in his  
16 interpretation of the Third Circuit opinion. The Third Circuit  
17 panel didn't seem to believe this Court understood that it has  
18 the ability -- that it thought that it was required to look to  
19 the amount made available rather than having the discretion to  
20 look to the amounts claimed. But the Third Circuit wasn't  
21 agnostic on that question either. There is lines in that  
22 opinion that strongly suggest this Court should look to the  
23 amounts claimed as the starting point. It said that it was the  
24 sensible starting line to begin with the award analysis. And  
25 the factors that Mr. Parks mentioned, for example, that there

1 wasn't harm to the class members and so you should look to the  
2 amounts made available, that's completely backward. That's  
3 going to give the attorneys a higher fee when they are bringing  
4 a weaker case. It makes zero sense from a policy perspective  
5 why that factor should -- counseling in favor of looking to the  
6 amount made available.

7           As far as the injunctive relief, the reason the Third  
8 Circuit didn't mention that is that wasn't the defense, that  
9 wasn't the -- that wasn't the formula that class counsel  
10 suggested, and that's why Your Honor had it only in a footnote.  
11 They specifically suggested they were being modest by not  
12 including that. They asked for the calculation based on the  
13 amounts claimed -- the amounts that were available but not  
14 claimed. They thought that was --

15           THE COURT: Did you mention the injunctive relief in  
16 your briefing to the Third Circuit?

17           MR. SCHULMAN: We did mention injunctive relief.

18           THE COURT: You did?

19           MR. SCHULMAN: We did mention generally the concept of  
20 injunctive relief settlements, which we agree can be valuable,  
21 but an injunctive relief --

22           THE COURT: How about in this case?

23           MR. SCHULMAN: In this case we do not agree that the  
24 conclusion of that footnote was correct in terms of saying  
25 that -- so Wawa in early 2020, and Mr. Parks can correct me if

1 I'm incorrect on the record, but in early 2020 their board had  
2 approved the \$35 million expenditure. It didn't come from the  
3 settlement, so the settlement makes -- puts some requirements  
4 that are enforceable, but it doesn't obligate Wawa to do  
5 anything that it wasn't already doing in terms of its data  
6 security practices. Those were voluntary decisions so that  
7 they don't --

8 THE COURT: So what you are suggesting is that  
9 entities, whether it's an individual or a company or, you know,  
10 an association, should be obdurate as long as possible until  
11 hauled into court and made to sign on the dotted line? There  
12 is very little difference from somebody who is obdurate and  
13 somebody who is adversarial and is fighting for fighting sake.  
14 If somebody sees, the scales dropped from their eyes, you know,  
15 and they say, you know, we've got this problem, let's meet it,  
16 you know, before it turns into a huge problem, you're saying  
17 that's stupid.

18 MR. SCHULMAN: I don't think that's stupid. I think  
19 that's a smart way and there is reasons that they would want to  
20 do that for -- to potentially reduce damages, to create a  
21 voluntary remedial scheme instead of making that the  
22 superior --

23 THE COURT: I've had a number of class action  
24 settlements where -- I can think of one right off the bat where  
25 there was insecticides being used and there was a very

1 proactive plan in place to make corrective action way before  
2 the litigants got down and dirty to talk about dollars and  
3 cents. There already was work being done by DuPont to correct  
4 it. You're saying that DuPont should get no benefits from  
5 having anticipated and reduced damages and save the  
6 environment, save the trees.

7 MR. SCHULMAN: Well, that can lay the foundation  
8 for --

9 THE COURT: But you're saying they don't get any  
10 benefit from it because they did it too early.

11 MR. SCHULMAN: I don't think the settlement gets  
12 credit for it, but DuPont might use that to prevent  
13 certification of the class, that that might be a superior  
14 remedial measure.

15 THE COURT: All right. This is not going to be a  
16 productive avenue to discuss. I'm going back to my plaintive  
17 reply. What am I supposed to do, do you think, now?

18 MR. SCHULMAN: Well, they can submit declarations. We  
19 don't think that gets to the fundamental -- we think that the  
20 Third Circuit opinion is best read to have the Court reconsider  
21 its conclusion that it's better to look at the amount made  
22 available rather than the amount claimed. We think there is  
23 strong suggestion in that opinion that that's the more sensible  
24 approach.

25 THE COURT: How do I figure that out?

1           MR. SCHULMAN: Just a fair reading of -- so the Third  
2 Circuit itself laid out certain factors why it might consider  
3 it. For example, it suggested that the fact that the relief  
4 was gift cards rather than cash could counsel in favor of  
5 looking at the amounts claimed rather than the amounts  
6 redeemed. So we didn't argue the -- there is a federal law,  
7 the Class Action Fairness Act, that actually governs coupons.  
8 We felt like the --

9           THE COURT: Gift cards are not coupons.

10          MR. SCHULMAN: Right. We felt that the declaration --

11          THE COURT: Trust me. I've spent a lot of years on  
12 this issue. The standing committee on the rules and the  
13 advisory committee on the civil rules and Judge Dow, Bob Dow,  
14 from the Northern District of Illinois spent a great deal of  
15 time working on Rule 23. And I know precisely what he worked  
16 on, so I'm not a neophyte on this.

17          MR. SCHULMAN: Sure. And we haven't raised the CAFA  
18 coupon issue before Your Honor, but we do think it's a factor  
19 that should be weighted in the analysis for whether Your Honor  
20 is going to look to the amounts claimed or the amounts made  
21 available. The fact is, when they get the coupon, there is  
22 another step -- the gift card rather, the electronic gift card,  
23 there is another step that needs to be taken before they can  
24 realize the value.

25          THE COURT: When the class is an indefinite class like

1 this, there is no way to identify this class of people --

2 MR. SCHULMAN: Well, they've tried to do that with the  
3 loyalty system.

4 THE COURT: But it cannot be done. You cannot know  
5 for certain who could be within these classes.

6 MR. SCHULMAN: Without them stepping forward.

7 THE COURT: Well, and then do what? I mean, how do  
8 you know? Would you -- like you want the plaintiffs' lawyers  
9 here to sign an oath. Would you have every customer of Wawa  
10 come in and sign an oath?

11 MR. SCHULMAN: When they submitted claims, they had  
12 to. There was an averment on that claim form. Now, I guess  
13 they don't require that of the loyalty members that they are  
14 sending out.

15 THE COURT: My point here is that there is a  
16 practicality quotient, and I'm going to just return to this  
17 melody: What is it that you think needs to be done?

18 MR. SCHULMAN: We think the fee award needs to be  
19 assessed --

20 THE COURT: How do I do that? Let's try it that way.

21 MR. SCHULMAN: In light of the amounts made available  
22 is the fundamental focus the Third Circuit decision cites --

23 THE COURT: When you say "the amount made  
24 available" --

25 MR. SCHULMAN: No, no, I'm sorry. If I said the

1 amounts made available, I misspoke and meant the amount  
2 claimed. I apologize. It's been a long day. A long trip up.

3 THE COURT: What point is it for the amount claimed?  
4 What's the point?

5 MR. SCHULMAN: The point in time? At the end of the  
6 claims process, which now is complete. And that's why the  
7 Third Circuit has language about deferring the fee award  
8 pending the results of that claims process. That's what the  
9 Beatty Products [ph] decision was as well.

10 There is a few more things I wanted to mention, just two  
11 more. Ms. Savett tried to characterize the third amendment as  
12 a clarification. I don't think Your Honor actually agrees with  
13 that, that the Third Amended Agreement was only a  
14 clarification, that it wasn't doing something new. I don't  
15 think Your Honor agrees with that and the Third Circuit  
16 certainly did not find that, so it's precluded by the Third  
17 Circuit's mandate in the panel opinion.

18 And lastly, if Your Honor would like, we'd be able to  
19 draft a proposed order and submit it to the Court.

20 THE COURT: You are going to draft one? You are going  
21 to do one in a group? I don't want competing draft orders,  
22 frankly. I don't find that to be helpful. And I don't know  
23 that it would be productive for me to encourage you all to work  
24 together since you're supposed to all be at each other's  
25 throats. Which way do you want to go?



1 MR. SCHULMAN: Well, we're happy to continue our  
2 dialogue with them. I don't know where they are right now.

3 THE COURT: Right there.

4 MR. SCHULMAN: Yes. Literally there, right there.

5 THE COURT: Literally what you want is you want them  
6 to take less money. Isn't that it?

7 MR. SCHULMAN: We think that a fair --

8 THE COURT: What happens to the money? Goes back to  
9 Wawa?

10 MR. SCHULMAN: No. It goes to the class members so  
11 that they get larger gift cards. That's the Third Amended  
12 Settlement. That's why we withdraw our objection to the  
13 settlement.

14 THE COURT: How much of a haircut do you want then? I  
15 want this out on the table.

16 MR. SCHULMAN: Okay.

17 THE COURT: I'm tired of all this hiding behind  
18 verbiage.

19 MR. SCHULMAN: So our last position in the papers is  
20 25 percent of the amounts claimed, which is 1.55 million.  
21 We've made an offer to them. Would you like to know that  
22 amount?

23 THE COURT: Do they know that?

24 MR. SCHULMAN: They know that.

25 THE COURT: Have you guys responded?

1 MS. LIEBENBERG: No.

2 THE COURT: When can you respond to them?

3 MS. SAVETT: We rejected it.

4 THE COURT: I guess you have the time.

5 MS. LIEBENBERG: We haven't told them that.

6 MS. SAVETT: But I think it is important while you're  
7 questioning that the amounts be put on the table so you  
8 understand what kind of cut he's speaking about.

9 THE COURT: Well, what I want to know is -- I'm back  
10 to my use of the two principals, one is l-e and one is a-l.  
11 I'm more interested in principles, l-e, and I'm hearing that  
12 the objectors -- the objector is more interested in a-l, which  
13 I imagine.

14 MR. SCHULMAN: I would disagree with that  
15 characterization. The only offer we've made -- our principal  
16 is that the fee should be based on the amounts claimed. It  
17 shouldn't be based on fictional amounts made available. Our  
18 offer is consistent with that.

19 THE COURT: You are making a demand, not an offer.

20 MR. SCHULMAN: It's not a demand. It was an offer.  
21 It was an offer. It wasn't a demand. It wasn't a  
22 take-it-or-leave-it. It was an offer.

23 THE COURT: We'll compromise on suggestion. How is  
24 that?

25 MR. SCHULMAN: Fair enough.

1           Well, our suggestion would put the ratio back into  
2           proportion. That was the problem. Under the fee award it was  
3           going to be the class counsel was going to get 3 million and  
4           the class was going to get less than that. Our suggestion  
5           would put the ratio back into harmony.

6           THE COURT: Does anybody think you're able to work  
7           together to come up with a proposed agenda for my asking you  
8           all to give me more information on which I can then make  
9           additional findings?

10          MS. SAVETT: I think we could do that. We could  
11          prepare -- we could each say what factual points we want to  
12          make in a declaration.

13          I just want to take issue with his statement that the  
14          money available to the class was fictional. It was not  
15          fictional. It was there for the class to claim. And there is  
16          quite a lot of law talking about why it's more important to  
17          accept the approach of money available, because a lot of times  
18          class members won't bother to make small claims, but you have  
19          to give them the ability to. And also, it's just discouraging  
20          class actions in general. One of the main points of class  
21          actions is to be able to represent people who do have small  
22          claims because they couldn't otherwise be represented.

23          So I think Your Honor -- we know Your Honor, if you were  
24          to get some additional facts from each side, could pick which  
25          approach you think makes the most sense in this case, the

1 actual claims made or the money available, and you could come  
2 up with some valuation of the benefit of the injunctive relief,  
3 and you could lay out your reasonableness factors which, quite  
4 frankly, we, on our side, thought you did a really good,  
5 thorough job the first time, but you would have more facts this  
6 time, and you can decide whether you think there was actually a  
7 kicker or whether it was all very innocent and done honestly  
8 and not collusively, and I think you could write a new opinion.

9           I don't see how we are going to agree with him. He  
10 wants us to take a drastic cut to an amount that already is  
11 quite negative for us in a case we worked hard and we got a  
12 significant benefit. And more than anything we want the class  
13 to get this benefit, because two years have gone by and they  
14 still didn't get their gift cards, and we can't get the money  
15 out to the class. And there is one objector, one objector out  
16 of 22 million people, that objected to this fee. And, of  
17 course, I think that's at least one of 20 reasonableness  
18 factors that the Court might consider.

19           But I don't really think that we can work this out right  
20 now. He's been steady that he thinks the Court makes a per se  
21 rule that you have to accept in this case the actual claims  
22 made, and we think the Court of Appeals, that's one thing they  
23 gave you complete discretion on. They said either way could  
24 work, just come up with a reasonableness analysis.

25           THE COURT: So here is what we're going to do. To be

1 true to my own view of what you lawyers should be doing, I  
2 don't want to force you to try and work together because that  
3 seems to be not in keeping with what somebody wants to  
4 establish here. So you can each have two weeks to submit to me  
5 whatever additional factual information you think the Court  
6 needs or must have pursuant to the Third Circuit's opinion or  
7 any gaps that you find in the original approval papers that I  
8 issued. And then I will invite you probably in January to come  
9 if there is going to be any very brief oral argument. I would  
10 like to have there be no more oral argument, however, and I  
11 really do not need more legal briefs telling me what some other  
12 circuit someplace else may have established. I believe every  
13 case is unique. I'm not in the cookie cutter business. I  
14 don't care what kind of a case it is. Every case is unique.  
15 This one is unique. It is special. Everybody is special.  
16 Every snowflake is special.

17 And you all have done a fine job, as has the circuit, in  
18 trying to be a conscientious gatekeeper or teacher, whatever,  
19 and I appreciate all of the input from the circuit and from all  
20 of you lawyers. And I will appreciate in two weeks getting  
21 whatever additional material you think the Court needs in order  
22 to address again the settlement, as all will describe it. And  
23 if there are gaps as a result of what you send to me, then I'll  
24 get back to you.

25 I mean, right now my sense is I would rather not have

1 more argument, but depending on what you give me. To the  
2 extent you can affirm that you've discussed any of this with  
3 each other, that would be helpful, but I'm not requiring that.  
4 And I am, frankly, dubious about there being any secret sauce  
5 anywhere or secret formula that would work magically here, and  
6 that's because I do think each case is separate.

7 But to put this in simple terms, I would actually, you  
8 know, show your work -- going back to homework -- where you say  
9 this is what the settlement is, this is what the component  
10 parts are, you know, this was the time line, this is what we  
11 did, this is who we worked on the settlement, this is how many  
12 hours we spent with the mediator, you know. Just go back and  
13 do it in words of one syllable. And I'll work with that. But  
14 I want there to be inclusion of injunctive relief and  
15 nonmonetary relief.

16 I also want somebody to -- and I know there are people  
17 who do this sort of thing, but I always want a computation of  
18 the time value of the money, how much has the class lost as a  
19 result of this process. I'm going to plug that into the  
20 decision of showing the net result of this concern. Because  
21 that's part of the practical feature of what's happened.

22 Anybody else have anything to offer?

23 MR. PARKS: Your Honor, again, Greg Parks for Wawa.  
24 Separate from the consumer track, there is the financial  
25 institutions track on which we had a settlement. We were

1 poised to send out notice about that settlement when the Third  
2 Circuit panel opinion came down, and we came to Your Honor and  
3 said we think we should stay that. I don't know if Your Honor  
4 wants to wait until after we've concluded this briefing to then  
5 address --

6 THE COURT: I frankly think it's a very different  
7 kettle of fish. Do you think that that cannot go forward on  
8 its own?

9 MR. PARKS: I think there are a few changes we'd have  
10 to make. Because it's clear from the Third Circuit's opinion  
11 that Your Honor at least has to have the information about the  
12 claims made in order to make the final determination, and I  
13 think the way we had that structured the claims deadline was  
14 after the final approval hearing, so we've got to change that,  
15 and that requires a change to the notice, which was one of the  
16 exhibits that Your Honor previously approved that we would have  
17 to now get reapproved.

18 We can do that now -- and I've talked with the leaders  
19 of the financial institution track -- and we're prepared to do  
20 that in two or three weeks, as Your Honor suggested. Or if  
21 Your Honor wanted to wait to sort out the consumer track first  
22 and then get the financial track, we can probably do that as  
23 well.

24 THE COURT: Well, let's see if you can do it on its  
25 own in a few weeks. I think you probably can do that. Is that

1    okay?

2                   MR. PARKS:    Yes.

3                   THE COURT:   I would just assume let that have its own  
4   life.

5                   MR. PARKS:   All right.

6                   THE COURT:   Because I think it can have its own life.

7                   MR. PARKS:   Strongly agree with that.   I know  
8   financial institution counsel agrees with that as well.

9                   THE COURT:   Where are we on the employee track?

10                  MR. PARKS:   We have settled, Your Honor, on an  
11   individual basis.   The stipulation of dismissal has been  
12   submitted.   That case is over and done, done, done I am  
13   ecstatic to say.

14                  THE COURT:   Done, done.   D-U-N or D-O-N-E?

15                  MR. PARKS:   Both, Your Honor.   All of the above.  
16   Done, done, done, done.   Mr. Haviland is not here today.

17                  THE COURT:   Well, send him a card.

18                  MR. PARKS:   I sure will.

19                  THE COURT:   All right.   Anything else from anybody?

20                  MS. SAVETT:   No, Your Honor.

21                  MS. LIEBENBERG:   Thank you, Your Honor.

22                  MR. PARKS:   No, Your Honor.

23                  THE COURT:   Fine.   Adjourned.   Bye.

24                  (Proceeding concluded at 4:28 p.m.)

25                                   -   -   -



1 I certify that the foregoing is a correct transcript  
2 from the record of proceedings in the above-entitled matter.

3  
4 /s/ Cherilyn M. McCollum

5 Cherilyn M. McCollum, CCR, RPR  
6 Official Court Reporter

7 Date: 7th day of December, 2023  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

\_\_\_\_\_*United States District Court*\_\_\_\_\_

<b>\$</b>	[1] - 10:17 <b>3.2</b> [6] - 28:5, 35:1, 35:3, 35:8, 35:11, 35:13 <b>30</b> [1] - 10:22 <b>30,000-foot</b> [1] - 37:18 <b>300</b> [1] - 2:22 <b>31st</b> [1] - 2:8 <b>35</b> [1] - 21:3 <b>3600</b> [1] - 1:15 <b>3:06</b> [1] - 1:9	<b>able</b> [6] - 37:12, 39:9, 39:11, 48:18, 51:6, 51:21 <b>abnormal</b> [1] - 35:23 <b>above-entitled</b> [1] - 57:2 <b>absentees</b> [1] - 41:24 <b>absolutely</b> [3] - 19:16, 23:3, 36:7 <b>accept</b> [2] - 51:17, 52:21 <b>acceptable</b> [1] - 16:25 <b>accepted</b> [1] - 16:12 <b>accomplished</b> [1] - 5:18 <b>according</b> [4] - 8:9, 8:18, 11:5, 29:13 <b>account</b> [1] - 13:16 <b>accusations</b> [1] - 22:4 <b>accused</b> [1] - 30:20 <b>achieve</b> [1] - 39:11 <b>acknowledged</b> [1] - 30:9 <b>acknowledgement</b> [1] - 8:8 <b>acrimony</b> [6] - 24:25, 26:8, 37:16, 41:4, 41:5, 42:13 <b>Act</b> [1] - 46:7 <b>action</b> [5] - 8:2, 24:6, 41:23, 44:23, 45:1 <b>Action</b> [1] - 46:7 <b>ACTION</b> [2] - 1:3, 2:21 <b>actions</b> [4] - 17:15, 27:9, 51:20, 51:21 <b>actual</b> [2] - 52:1, 52:21 <b>Adam</b> [1] - 4:17 <b>ADAM</b> [1] - 2:21 <b>adam.schulman@hlli.org</b> [1] - 2:23 <b>addition</b> [2] - 18:3, 31:19 <b>additional</b> [5] - 25:9, 51:9, 51:24, 53:5, 53:21 <b>additions</b> [1] - 27:3 <b>address</b> [7] - 12:12, 19:11, 35:12, 36:10, 36:25, 53:22, 55:5 <b>addressed</b> [3] - 6:22, 27:25, 29:2 <b>adequate</b> [1] - 8:24 <b>adjourned</b> [1] - 56:23 <b>adoption</b> [1] - 16:8	<b>advance</b> [1] - 38:2 <b>adversarial</b> [4] - 38:5, 41:7, 42:9, 44:13 <b>adversarialness</b> [2] - 41:6, 42:13 <b>advisory</b> [1] - 46:13 <b>advocacy</b> [2] - 33:19, 37:4 <b>advocating</b> [1] - 34:12 <b>AFANADOR</b> [1] - 3:7 <b>affidavits</b> [1] - 31:13 <b>affirm</b> [1] - 54:2 <b>afraid</b> [1] - 18:23 <b>afternoon</b> [8] - 4:3, 4:7, 4:9, 4:11, 4:13, 4:17, 5:2, 29:20 <b>agenda</b> [1] - 51:7 <b>agent</b> [1] - 9:3 <b>agnostic</b> [1] - 42:21 <b>agree</b> [23] - 14:11, 23:3, 23:7, 24:7, 25:2, 25:22, 31:5, 32:22, 34:16, 34:17, 34:18, 36:7, 37:22, 38:11, 38:18, 38:22, 39:13, 40:5, 42:15, 43:20, 43:23, 52:9, 56:7 <b>agreed</b> [4] - 9:17, 10:1, 24:8, 35:1 <b>Agreement</b> [4] - 28:3, 28:12, 28:14, 48:13 <b>agreement</b> [13] - 19:16, 22:5, 23:19, 23:21, 23:22, 24:4, 24:6, 27:22, 28:1, 28:2, 28:17, 31:14, 38:6 <b>agreements</b> [9] - 15:14, 19:11, 19:23, 23:9, 26:14, 29:12, 32:22, 32:23, 35:24 <b>agrees</b> [5] - 24:2, 31:8, 48:12, 48:15, 56:8 <b>aided</b> [1] - 1:25 <b>AL</b> [2] - 1:14, 50:12 <b>alarm</b> [1] - 42:5 <b>allegation</b> [1] - 9:1 <b>alleged</b> [1] - 15:20 <b>allow</b> [1] - 27:8 <b>allowed</b> [1] - 30:16 <b>alluded</b> [1] - 27:21 <b>almost</b> [1] - 35:5 <b>ALSO</b> [1] - 3:1 <b>Amended</b> [6] - 9:20, 28:3, 28:12, 28:13, 48:13, 49:11	<b>amendment</b> [2] - 6:2, 48:11 <b>Americas</b> [1] - 2:8 <b>amount</b> [26] - 7:7, 8:22, 8:24, 10:3, 24:8, 25:24, 29:4, 30:10, 30:11, 30:15, 30:16, 30:23, 32:7, 34:16, 35:6, 35:10, 42:19, 43:6, 45:21, 45:22, 47:23, 48:1, 48:3, 49:22, 52:10 <b>amounts</b> [26] - 6:5, 16:9, 16:20, 29:3, 31:18, 32:16, 32:17, 36:22, 38:17, 42:20, 42:23, 43:2, 43:13, 46:5, 46:20, 47:21, 48:1, 49:20, 50:7, 50:16, 50:17 <b>amplifying</b> [1] - 28:23 <b>analysis</b> [7] - 19:3, 21:19, 26:10, 31:6, 42:24, 46:19, 52:24 <b>analyze</b> [1] - 17:21 <b>AND</b> [1] - 2:2 <b>anger</b> [1] - 29:10 <b>angle</b> [1] - 37:18 <b>answer</b> [1] - 21:14 <b>anticipated</b> [1] - 45:5 <b>apart</b> [1] - 6:11 <b>apologize</b> [1] - 48:2 <b>appeal</b> [5] - 14:15, 21:24, 26:13, 26:17, 28:20 <b>Appeals</b> [3] - 16:2, 16:4, 52:22 <b>Appeals'</b> [1] - 29:14 <b>APPEARANCES</b> [2] - 1:13, 2:1 <b>appeared</b> [1] - 31:25 <b>application</b> [1] - 21:22 <b>apportionment</b> [1] - 15:13 <b>appreciate</b> [4] - 17:18, 40:13, 53:19, 53:20 <b>approach</b> [5] - 5:22, 17:2, 45:24, 51:17, 51:25 <b>appropriate</b> [4] - 5:21, 6:21, 31:19, 35:13 <b>approval</b> [7] - 17:25, 26:2, 35:25, 36:16, 53:7, 55:14 <b>approved</b> [3] - 38:8, 44:2, 55:16
<b>/</b>				
<b>/s</b> [1] - 57:4				
<b>1</b>	<b>1</b> [1] - 28:5 <b>1.55</b> [1] - 49:20 <b>10</b> [1] - 16:6 <b>10036-6710</b> [1] - 2:9 <b>1133</b> [1] - 2:8 <b>11th</b> [1] - 40:9 <b>12th</b> [1] - 21:12 <b>14th</b> [1] - 21:12 <b>16</b> [1] - 16:7 <b>16-year-old</b> [1] - 40:17 <b>1629</b> [1] - 2:22 <b>1818</b> [1] - 1:15 <b>18th</b> [1] - 21:13 <b>19</b> [2] - 16:7, 17:2 <b>19-6019</b> [2] - 1:3, 4:6 <b>19103</b> [2] - 1:15, 2:17 <b>19106</b> [1] - 1:8 <b>19107</b> [1] - 2:4 <b>19428</b> [1] - 2:13	<b>4</b> <b>400</b> [1] - 2:13 <b>438-9189</b> [1] - 2:9 <b>457-0856</b> [1] - 2:23 <b>47</b> [1] - 33:7 <b>477-8380</b> [1] - 2:14 <b>4:28</b> [1] - 56:24		
	<b>5</b> <b>5</b> [1] - 1:9 <b>50</b> [1] - 21:25 <b>567-5872</b> [1] - 2:5			
	<b>6</b> <b>6.2</b> [1] - 8:23 <b>601</b> [1] - 1:8 <b>610</b> [2] - 2:14, 2:23			
	<b>7</b> <b>7</b> [1] - 24:5 <b>77</b> [2] - 27:22, 28:15 <b>78</b> [7] - 21:23, 23:20, 23:22, 24:1, 24:12, 25:15, 25:17 <b>7th</b> [1] - 57:6			
	<b>8</b> <b>8</b> [1] - 24:5 <b>875-3000</b> [1] - 1:16			
	<b>9</b> <b>9</b> [1] - 34:20 <b>917</b> [1] - 2:9 <b>963-5000</b> [1] - 2:18 <b>97</b> [1] - 25:12			
	<b>A</b> <b>a-l</b> [2] - 9:15, 50:10 <b>ability</b> [2] - 42:18, 51:19			
<b>2</b>	<b>2</b> [1] - 28:5 <b>20</b> [1] - 52:17 <b>200</b> [1] - 2:13 <b>20006</b> [1] - 2:22 <b>2020</b> [2] - 43:25, 44:1 <b>2023</b> [2] - 1:9, 57:6 <b>21</b> [1] - 16:7 <b>215</b> [3] - 1:16, 2:5, 2:18 <b>22</b> [2] - 20:7, 52:16 <b>2222</b> [1] - 2:17 <b>23</b> [4] - 17:10, 27:3, 39:14, 46:15 <b>23(h)</b> [1] - 8:4 <b>2300</b> [1] - 2:4 <b>25</b> [4] - 10:16, 10:23, 21:21, 49:20			
<b>3</b>	<b>3</b> [3] - 10:16, 24:5, 51:3 <b>3-point-some-odd</b>			

United States District Court

<p><b>area</b> [1] - 25:20  <b>argue</b> [1] - 46:6  <b>argued</b> [1] - 7:11  <b>arguing</b> [3] - 23:14, 23:15, 23:17  <b>argument</b> [6] - 16:7, 19:17, 28:13, 53:9, 53:10, 54:1  <b>arm's</b> [2] - 8:15, 8:22  <b>arrive</b> [1] - 35:22  <b>arrived</b> [2] - 33:17, 37:2  <b>article</b> [1] - 40:16  <b>aside</b> [1] - 32:25  <b>assessed</b> [1] - 47:19  <b>assign</b> [1] - 40:18  <b>assigning</b> [1] - 21:9  <b>association</b> [1] - 44:10  <b>assume</b> [1] - 56:3  <b>assurance</b> [1] - 28:8  <b>astonishes</b> [1] - 10:20  <b>atmosphere</b> [1] - 13:12  <b>attendance</b> [1] - 4:6  <b>attention</b> [2] - 27:5, 39:18  <b>attorney</b> [3] - 5:18, 8:1, 42:1  <b>attorney's</b> [4] - 24:7, 29:24, 34:22, 41:8  <b>attorneys</b> [1] - 43:3  <b>audits</b> [3] - 18:13, 20:13, 31:12  <b>auspices</b> [1] - 23:12  <b>available</b> [25] - 7:8, 9:18, 16:20, 30:11, 30:15, 30:24, 31:18, 32:7, 32:9, 32:16, 34:17, 36:22, 42:19, 43:2, 43:6, 43:13, 45:22, 46:21, 47:21, 47:24, 48:1, 50:17, 51:14, 51:17, 52:1  <b>avenue</b> [1] - 45:16  <b>Avenue</b> [1] - 2:8  <b>avermint</b> [1] - 47:12  <b>award</b> [16] - 5:25, 6:4, 8:1, 10:22, 12:8, 15:12, 16:5, 16:9, 16:19, 25:23, 29:23, 30:10, 42:24, 47:18, 48:7, 51:2  <b>awarded</b> [3] - 28:1, 28:4, 35:10  <b>awards</b> [1] - 27:24  <b>aware</b> [1] - 14:25  <b>axe</b> [2] - 22:10, 29:22</p>	<p style="text-align: center;"><b>B</b></p> <p><b>back-and-forth</b> [2] - 36:2, 36:3  <b>backward</b> [1] - 43:2  <b>bad</b> [5] - 31:24, 37:15, 37:16, 40:12, 41:7  <b>Barr</b> [1] - 2:13  <b>base</b> [1] - 25:9  <b>based</b> [6] - 16:9, 16:19, 16:24, 43:12, 50:16, 50:17  <b>basis</b> [1] - 56:11  <b>bat</b> [1] - 44:24  <b>bears</b> [1] - 13:14  <b>Beatty</b> [1] - 48:9  <b>Becker</b> [1] - 9:9  <b>BEFORE</b> [1] - 1:11  <b>befuddled</b> [1] - 24:23  <b>begin</b> [2] - 41:3, 42:24  <b>behind</b> [2] - 37:25, 49:17  <b>beliefs</b> [1] - 16:14  <b>believes</b> [1] - 5:18  <b>bell</b> [1] - 42:5  <b>belong</b> [1] - 27:9  <b>ben</b> [1] - 31:11  <b>Ben</b> [2] - 4:7, 31:15  <b>beneath</b> [1] - 33:12  <b>benefit</b> [10] - 15:13, 17:24, 18:2, 19:8, 20:17, 39:15, 45:10, 52:2, 52:12, 52:13  <b>benefits</b> [3] - 21:4, 38:8, 45:4  <b>BENJAMIN</b> [1] - 2:12  <b>BERGER</b> [1] - 1:14  <b>best</b> [5] - 8:14, 23:1, 32:20, 38:7, 45:20  <b>better</b> [3] - 17:24, 19:8, 45:21  <b>between</b> [3] - 9:4, 10:14, 16:22  <b>bewildered</b> [2] - 17:8, 24:23  <b>bewildering</b> [2] - 17:7, 24:16  <b>bewilders</b> [1] - 17:20  <b>big</b> [1] - 37:17  <b>bilateral</b> [2] - 41:10, 41:24  <b>bit</b> [5] - 18:7, 33:13, 33:21, 34:6, 39:7  <b>bjohns@shublawyers.com</b> [1] - 2:14  <b>BLACK</b> [1] - 2:2</p>	<p><b>board</b> [1] - 44:1  <b>Bob</b> [1] - 46:13  <b>Bobbi</b> [5] - 4:11, 19:10, 19:19, 22:3, 22:7  <b>Bobbi's</b> [1] - 19:17  <b>BOCKIUS</b> [1] - 2:16  <b>Boeing</b> [1] - 10:25  <b>bother</b> [1] - 51:18  <b>breach</b> [2] - 19:3, 31:23  <b>Bridge</b> [1] - 2:12  <b>brief</b> [7] - 6:7, 12:1, 12:3, 28:11, 36:19, 36:24, 53:9  <b>briefed</b> [1] - 16:10  <b>briefing</b> [8] - 6:17, 12:4, 14:5, 14:22, 14:24, 43:16, 55:4  <b>briefs</b> [5] - 10:8, 10:9, 28:11, 36:18, 53:11  <b>bring</b> [1] - 12:21  <b>bringing</b> [1] - 43:3  <b>brings</b> [2] - 35:16, 35:17  <b>Broad</b> [1] - 2:4  <b>brought</b> [1] - 14:12  <b>buckets</b> [1] - 7:1  <b>bulletproof</b> [1] - 32:19  <b>business</b> [1] - 53:13  <b>buy</b> [1] - 18:22  <b>buzz</b> [1] - 35:19  <b>BY</b> [7] - 1:14, 2:3, 2:3, 2:8, 2:12, 2:16, 2:21  <b>bye</b> [1] - 56:23  <b>Byrne</b> [1] - 1:7</p> <p style="text-align: center;"><b>C</b></p> <p><b>CAFA</b> [1] - 46:17  <b>calculation</b> [1] - 43:12  <b>cannot</b> [3] - 47:4, 55:7  <b>cap</b> [1] - 35:1  <b>captains</b> [1] - 39:2  <b>card</b> [9] - 18:3, 18:4, 18:23, 20:9, 31:25, 36:3, 46:22, 56:17  <b>cards</b> [10] - 18:7, 18:9, 25:11, 25:12, 28:6, 32:14, 46:4, 46:9, 49:11, 52:14  <b>care</b> [1] - 53:14  <b>CARPENTER</b> [1] - 3:4  <b>carve</b> [1] - 41:16</p>	<p><b>case</b> [43] - 4:5, 4:24, 8:6, 9:17, 10:25, 12:17, 21:21, 22:19, 22:20, 25:3, 27:10, 27:12, 30:4, 31:22, 31:23, 32:7, 33:8, 34:13, 35:7, 37:11, 37:12, 38:24, 41:13, 41:19, 41:22, 42:3, 42:6, 42:7, 42:8, 42:11, 43:4, 43:22, 43:23, 51:25, 52:11, 52:21, 53:13, 53:14, 54:6, 56:12  <b>cases</b> [2] - 11:16, 19:3  <b>cash</b> [2] - 18:8, 46:4  <b>casts</b> [1] - 8:22  <b>caused</b> [2] - 30:18, 30:23  <b>CCR</b> [2] - 1:18, 57:5  <b>CCR-NJ</b> [1] - 1:18  <b>CENTER</b> [1] - 2:21  <b>cents</b> [1] - 45:3  <b>centuries</b> [1] - 40:11  <b>century</b> [5] - 21:9, 21:12, 40:9, 40:15  <b>certain</b> [3] - 35:19, 46:2, 47:5  <b>certainly</b> [4] - 20:24, 26:25, 41:21, 48:16  <b>certification</b> [1] - 45:13  <b>certify</b> [1] - 57:1  <b>challenges</b> [1] - 33:25  <b>chance</b> [2] - 11:3, 35:10  <b>change</b> [3] - 7:12, 55:14, 55:15  <b>changes</b> [4] - 20:10, 27:3, 55:9  <b>characterization</b> [1] - 50:15  <b>characterize</b> [1] - 48:11  <b>characterized</b> [2] - 29:11, 32:23  <b>charge</b> [1] - 31:25  <b>check</b> [1] - 33:7  <b>Cherilyn</b> [3] - 1:18, 57:4, 57:5  <b>Cherilyn_McCollum@paed.uscourts.gov</b> [1] - 1:19  <b>choice</b> [1] - 19:7  <b>Christian</b> [1] - 5:10  <b>CHRISTIAN</b> [1] - 3:2  <b>circuit</b> [4] - 31:4,</p>	<p>53:12, 53:17, 53:19  <b>Circuit</b> [38] - 5:13, 6:3, 6:22, 7:2, 7:5, 7:13, 10:20, 14:3, 15:9, 15:19, 16:11, 16:13, 16:18, 20:1, 24:4, 26:10, 26:13, 28:11, 28:16, 30:13, 31:20, 32:23, 33:4, 33:17, 33:20, 34:8, 42:16, 42:20, 43:8, 43:16, 45:20, 46:2, 47:22, 48:7, 48:15, 55:2  <b>Circuit's</b> [8] - 12:5, 17:7, 30:6, 36:21, 39:23, 48:17, 53:6, 55:10  <b>cites</b> [1] - 47:22  <b>CIVIL</b> [1] - 1:3  <b>civil</b> [1] - 46:13  <b>civilized</b> [2] - 37:21, 38:21  <b>claim</b> [2] - 47:12, 51:15  <b>claimed</b> [20] - 6:5, 7:8, 16:9, 16:14, 19:9, 30:11, 30:16, 32:17, 36:22, 42:20, 42:23, 43:13, 43:14, 45:22, 46:5, 46:20, 48:2, 48:3, 49:20, 50:16  <b>claims</b> [12] - 16:16, 16:24, 19:2, 47:11, 48:6, 48:8, 51:18, 51:22, 52:1, 52:21, 55:12, 55:13  <b>clarification</b> [2] - 48:12, 48:14  <b>clarified</b> [2] - 28:3, 28:22  <b>CLASS</b> [1] - 2:21  <b>class</b> [50] - 6:5, 6:8, 6:12, 8:1, 9:4, 9:19, 13:4, 14:8, 16:10, 16:14, 17:14, 18:1, 18:21, 19:9, 20:7, 23:23, 23:24, 24:6, 24:7, 27:1, 27:9, 28:5, 32:4, 34:17, 34:22, 35:3, 35:23, 38:7, 38:9, 39:21, 41:23, 43:1, 43:9, 44:23, 45:13, 46:25, 47:1, 49:10, 51:3, 51:4, 51:14, 51:15, 51:18, 51:20, 52:12, 52:15, 54:18  <b>Class</b> [1] - 46:7  <b>classes</b> [2] - 17:12,</p>
--	--	---	--	--

<p>47:5  <b>clean</b> [2] - 27:12, 34:11  <b>clean-as-the-driven-snow</b> [1] - 34:11  <b>clear</b> [28] - 7:9, 13:3, 13:10, 14:4, 15:20, 15:24, 16:12, 19:7, 19:22, 20:23, 21:1, 23:19, 23:21, 24:4, 24:5, 24:12, 26:11, 30:13, 30:17, 33:9, 33:16, 35:17, 37:1, 39:25, 41:6, 42:4, 42:9, 55:10  <b>clearer</b> [1] - 30:12  <b>clearly</b> [3] - 18:23, 20:17, 36:17  <b>client</b> [2] - 12:10, 14:12  <b>clients</b> [2] - 9:4, 34:13  <b>clients'</b> [1] - 12:18  <b>close</b> [1] - 6:11  <b>closes</b> [1] - 33:20  <b>colleague</b> [2] - 22:3, 22:7  <b>collection</b> [1] - 27:5  <b>collision</b> [3] - 8:6, 41:14, 41:25  <b>collude</b> [1] - 12:22  <b>colluder</b> [2] - 30:1, 30:2  <b>colluding</b> [1] - 34:11  <b>collusion</b> [14] - 6:15, 6:16, 6:18, 11:8, 11:10, 11:14, 13:8, 23:10, 23:14, 23:16, 23:18, 27:11, 28:14  <b>collusively</b> [1] - 52:8  <b>Commencing</b> [1] - 1:9  <b>commentary</b> [1] - 42:10  <b>comments</b> [1] - 41:1  <b>committee</b> [3] - 17:9, 46:12, 46:13  <b>common</b> [3] - 7:7, 8:24, 20:5  <b>community</b> [1] - 37:16  <b>company</b> [1] - 44:9  <b>compared</b> [1] - 19:2  <b>competent</b> [1] - 12:12  <b>competing</b> [1] - 48:21  <b>complaining</b> [1] - 38:17  <b>complete</b> [2] - 48:6,</p>	<p>52:23  <b>completely</b> [2] - 15:8, 43:2  <b>compliance</b> [1] - 31:13  <b>complied</b> [1] - 20:14  <b>component</b> [3] - 8:1, 25:7, 54:9  <b>compromise</b> [1] - 50:23  <b>computation</b> [1] - 54:17  <b>computer</b> [1] - 1:25  <b>computer-aided</b> [1] - 1:25  <b>concept</b> [3] - 7:19, 17:12, 43:19  <b>concern</b> [2] - 37:14, 54:20  <b>concerned</b> [4] - 7:2, 7:6, 7:9, 41:17  <b>concerning</b> [1] - 24:14  <b>concluded</b> [3] - 7:6, 55:4, 56:24  <b>conclusion</b> [3] - 39:9, 43:24, 45:21  <b>concretely</b> [1] - 21:6  <b>CONFERENCE</b> [1] - 1:4  <b>confess</b> [2] - 19:14, 19:15  <b>confessed</b> [2] - 7:17, 7:21  <b>confession</b> [1] - 7:18  <b>confessional</b> [1] - 16:1  <b>confidence</b> [2] - 12:15, 12:16  <b>conflict</b> [7] - 6:18, 6:19, 8:25, 9:2, 9:3, 11:11, 12:24  <b>conflict-of-interest</b> [1] - 11:11  <b>conflicts</b> [1] - 13:1  <b>connection</b> [1] - 23:25  <b>conscientious</b> [1] - 53:18  <b>Conshohocken</b> [1] - 2:13  <b>consider</b> [7] - 15:10, 20:1, 21:17, 32:16, 36:21, 46:2, 52:18  <b>considerations</b> [2] - 6:21, 7:1  <b>considered</b> [4] - 13:19, 16:11, 28:24, 31:3  <b>considering</b> [1] -</p>	<p>12:24  <b>consistent</b> [2] - 25:15, 50:18  <b>constrained</b> [1] - 30:14  <b>constructive</b> [2] - 7:7, 8:24  <b>consumer</b> [9] - 4:4, 4:8, 4:10, 4:12, 4:14, 4:24, 6:1, 54:24, 55:21  <b>CONSUMER</b> [3] - 2:2, 2:7, 2:11  <b>consumers</b> [1] - 20:15  <b>contemplated</b> [1] - 26:25  <b>contest</b> [3] - 24:2, 24:7, 25:18  <b>context</b> [1] - 37:23  <b>continue</b> [1] - 49:1  <b>CONTINUED</b> [1] - 2:1  <b>contract</b> [1] - 42:1  <b>controversy</b> [1] - 24:21  <b>cookie</b> [1] - 53:13  <b>cooperate</b> [1] - 23:23  <b>cooperation</b> [4] - 24:12, 24:21, 25:4, 25:16  <b>coordinated</b> [2] - 33:19, 37:3  <b>correct</b> [8] - 39:4, 39:22, 40:8, 43:24, 43:25, 45:3, 57:1  <b>corrective</b> [1] - 45:1  <b>correspond</b> [1] - 14:21  <b>correspondence</b> [3] - 10:11, 10:13, 14:8  <b>cost</b> [2] - 20:18, 32:13  <b>counsel</b> [26] - 6:8, 6:12, 6:13, 9:4, 11:3, 14:8, 18:17, 19:18, 21:20, 23:1, 23:23, 23:24, 25:3, 25:10, 27:11, 29:1, 29:19, 30:4, 32:4, 35:23, 36:12, 37:9, 43:9, 46:4, 51:3, 56:8  <b>counsel's</b> [1] - 24:7  <b>counseling</b> [1] - 43:5  <b>counsels'</b> [1] - 13:5  <b>counterpoint</b> [1] - 39:3  <b>counting</b> [1] - 16:24  <b>coupon</b> [2] - 46:18, 46:21</p>	<p><b>coupons</b> [2] - 46:7, 46:9  <b>course</b> [5] - 10:19, 27:10, 37:9, 41:4, 52:17  <b>COURT</b> [154] - 1:1, 4:2, 4:20, 4:25, 5:4, 5:6, 5:12, 5:21, 5:23, 6:10, 6:13, 6:15, 6:19, 7:4, 7:15, 8:5, 8:17, 9:2, 9:7, 9:10, 9:13, 9:21, 9:24, 10:5, 10:9, 10:12, 10:18, 10:24, 11:1, 11:4, 11:12, 11:16, 11:20, 12:3, 12:7, 12:9, 12:13, 13:1, 13:6, 13:10, 13:17, 13:22, 14:1, 14:5, 14:9, 14:14, 14:17, 14:23, 15:3, 15:6, 15:12, 15:16, 16:1, 17:6, 17:20, 18:6, 18:9, 18:15, 19:5, 19:13, 20:3, 20:18, 20:22, 21:1, 21:7, 21:11, 21:16, 22:1, 22:9, 23:6, 23:15, 24:9, 24:16, 25:25, 26:5, 26:15, 27:1, 28:7, 28:18, 29:1, 29:13, 29:16, 29:18, 30:1, 30:19, 31:2, 31:7, 32:1, 33:1, 33:21, 34:3, 36:5, 36:11, 36:19, 37:10, 37:24, 38:12, 38:15, 38:21, 38:23, 39:1, 39:5, 39:20, 40:3, 40:7, 40:9, 40:12, 40:14, 40:20, 40:23, 41:2, 41:12, 42:2, 43:15, 43:18, 43:22, 44:8, 44:23, 45:9, 45:15, 45:25, 46:9, 46:11, 46:25, 47:4, 47:7, 47:15, 47:20, 47:23, 48:3, 48:20, 49:3, 49:5, 49:8, 49:14, 49:17, 49:23, 49:25, 50:2, 50:4, 50:9, 50:19, 50:23, 51:6, 52:25, 55:6, 55:24, 56:3, 56:6, 56:9, 56:14, 56:17, 56:19, 56:23  <b>Court</b> [46] - 1:19, 7:3, 7:6, 8:25, 12:11, 14:3, 15:10, 16:2, 16:3, 16:7, 16:15, 16:17, 16:21, 17:1, 17:2, 20:12, 25:23, 28:1,</p>	<p>28:4, 28:12, 28:22, 28:24, 29:14, 30:17, 33:11, 34:5, 35:12, 35:19, 35:25, 39:17, 39:21, 41:7, 42:3, 42:6, 42:9, 42:17, 42:22, 45:20, 48:19, 52:18, 52:20, 52:22, 53:5, 53:21, 57:5  <b>court</b> [4] - 4</p>
--	---	--	--	--

<p><b>decisions</b> [1] - 44:6  <b>declaration</b> [3] - 25:6, 46:10, 51:12  <b>declarations</b> [10] - 15:23, 20:25, 21:4, 28:22, 34:6, 35:14, 35:21, 36:25, 37:4, 45:18  <b>defendant</b> [2] - 4:16, 9:5  <b>DEFENDANT</b> [1] - 2:16  <b>defendant's</b> [2] - 19:18, 42:10  <b>defendants</b> [1] - 24:6  <b>defense</b> [2] - 6:13, 43:8  <b>deferring</b> [1] - 48:7  <b>defined</b> [1] - 24:4  <b>definitely</b> [1] - 30:2  <b>definition</b> [1] - 24:3  <b>demand</b> [3] - 50:19, 50:20, 50:21  <b>demands</b> [1] - 27:7  <b>DePALMA</b> [1] - 3:7  <b>deprives</b> [2] - 41:7, 42:9  <b>depriving</b> [1] - 42:6  <b>describe</b> [1] - 53:22  <b>deserve</b> [1] - 32:8  <b>determination</b> [3] - 16:4, 17:1, 55:12  <b>determining</b> [2] - 28:25, 32:3  <b>developed</b> [1] - 15:19  <b>DEVER</b> [1] - 2:3  <b>devoted</b> [1] - 24:18  <b>devotee</b> [1] - 24:19  <b>dialogue</b> [1] - 49:2  <b>difference</b> [1] - 44:12  <b>different</b> [4] - 21:9, 38:18, 41:23, 55:6  <b>difficult</b> [1] - 13:7  <b>dirty</b> [1] - 45:2  <b>disagree</b> [1] - 50:14  <b>disagreed</b> [1] - 30:14  <b>discerned</b> [1] - 12:14  <b>disclose</b> [1] - 5:14  <b>disclosed</b> [1] - 7:17  <b>disconnect</b> [1] - 24:23  <b>discouraging</b> [1] - 51:19  <b>discovery</b> [2] - 11:18, 12:2  <b>discretion</b> [10] - 16:6, 16:21, 19:7, 26:23, 28:23, 31:21, 32:18, 36:23, 42:19,</p>	<p>52:23  <b>discuss</b> [4] - 25:22, 26:3, 29:9, 45:16  <b>discussed</b> [7] - 7:16, 8:8, 11:6, 29:2, 29:8, 36:15, 54:2  <b>discussion</b> [1] - 27:16  <b>discussions</b> [2] - 27:17, 38:3  <b>dismissal</b> [1] - 56:11  <b>disparage</b> [1] - 41:21  <b>distinct</b> [1] - 36:6  <b>District</b> [6] - 17:2, 33:3, 35:19, 39:17, 39:25, 46:14  <b>district</b> [2] - 33:23, 34:1  <b>DISTRICT</b> [2] - 1:1, 1:1  <b>docket</b> [1] - 10:2  <b>docketed</b> [1] - 4:5  <b>dollar</b> [6] - 9:5, 9:18, 29:3, 29:4, 35:6, 36:3  <b>dollars</b> [5] - 9:10, 9:13, 25:13, 29:24, 45:2  <b>done</b> [27] - 12:20, 13:18, 14:6, 15:16, 18:19, 22:17, 23:2, 23:12, 26:7, 32:8, 35:1, 38:8, 45:3, 47:4, 47:17, 52:7, 53:17, 56:12, 56:14, 56:16  <b>DONE</b> [1] - 56:14  <b>dotted</b> [1] - 44:11  <b>doubt</b> [1] - 8:22  <b>Dow</b> [2] - 46:13  <b>down</b> [4] - 21:25, 34:25, 45:2, 55:2  <b>draft</b> [3] - 48:19, 48:20, 48:21  <b>drastic</b> [1] - 52:10  <b>draw</b> [1] - 40:15  <b>Drive</b> [1] - 2:13  <b>driven</b> [2] - 27:12, 34:11  <b>dropped</b> [1] - 44:14  <b>dubious</b> [1] - 54:4  <b>DUN</b> [1] - 56:14  <b>DuPont</b> [3] - 45:3, 45:4, 45:12  <b>dust</b> [2] - 19:22, 33:24  <b>duty</b> [3] - 14:2, 39:21, 40:1</p>	<p><b>early</b> [3] - 43:25, 44:1, 45:10  <b>earnest</b> [1] - 22:11  <b>earnestly</b> [2] - 22:16, 26:6  <b>easier</b> [1] - 37:5  <b>EASTERN</b> [1] - 1:1  <b>Eastern</b> [1] - 33:3  <b>economic</b> [1] - 9:9  <b>economical</b> [1] - 22:23  <b>ecstatic</b> [1] - 56:13  <b>effect</b> [2] - 30:3, 35:11  <b>efficiency</b> [2] - 7:13, 13:15  <b>efficient</b> [1] - 22:24  <b>effort</b> [1] - 35:7  <b>efforts</b> [1] - 23:1  <b>eggs</b> [1] - 8:7  <b>either</b> [8] - 7:17, 16:20, 26:1, 30:11, 33:2, 36:21, 42:21, 52:23  <b>electronic</b> [1] - 46:22  <b>eliminate</b> [2] - 24:21, 24:22  <b>embittered</b> [1] - 38:13  <b>emphasize</b> [1] - 25:21  <b>emphasized</b> [1] - 16:4  <b>employee</b> [1] - 56:9  <b>encourage</b> [1] - 48:23  <b>end</b> [4] - 8:6, 41:14, 41:25, 48:5  <b>ended</b> [1] - 22:22  <b>enforceable</b> [2] - 20:12, 44:4  <b>enforced</b> [1] - 18:14  <b>engage</b> [1] - 27:16  <b>enhanced</b> [1] - 25:8  <b>enjoying</b> [1] - 29:19  <b>ensure</b> [1] - 20:13  <b>ensures</b> [1] - 8:23  <b>entities</b> [1] - 44:9  <b>entitled</b> [2] - 27:1, 57:2  <b>environment</b> [1] - 45:6  <b>envision</b> [2] - 7:24, 26:1  <b>equitable</b> [1] - 8:4  <b>especially</b> [2] - 31:11, 37:22  <b>ESQUIRE</b> [1] - 1:14, 2:3, 2:3, 2:8, 2:12, 2:16, 2:21, 3:2, 3:3,</p>	<p>3:5, 3:6  <b>establish</b> [1] - 53:4  <b>established</b> [1] - 53:12  <b>ET</b> [1] - 1:14  <b>evaluate</b> [4] - 16:18, 20:16, 27:6, 27:7  <b>evaluation</b> [3] - 22:12, 22:15, 34:18  <b>evidence</b> [1] - 37:19  <b>evil</b> [1] - 27:17  <b>evilness</b> [1] - 22:18  <b>exact</b> [1] - 34:7  <b>exactly</b> [5] - 18:8, 30:7, 36:1, 42:4, 42:11  <b>example</b> [3] - 8:5, 42:25, 46:3  <b>except</b> [1] - 39:1  <b>exchange</b> [1] - 27:18  <b>exchanging</b> [1] - 37:7  <b>excited</b> [2] - 18:9, 36:18  <b>executed</b> [1] - 28:13  <b>exercise</b> [1] - 36:23  <b>exercising</b> [1] - 31:20  <b>exhibits</b> [1] - 55:16  <b>exist</b> [2] - 19:12, 22:18  <b>existed</b> [2] - 22:7, 28:15  <b>expect</b> [1] - 21:14  <b>expenditure</b> [1] - 44:2  <b>expenses</b> [1] - 27:25  <b>experienced</b> [1] - 7:18  <b>experiencing</b> [1] - 20:9  <b>expert</b> [1] - 17:21  <b>explaining</b> [1] - 35:25  <b>explicitly</b> [1] - 28:4  <b>explore</b> [2] - 33:17, 36:25  <b>extent</b> [1] - 54:2  <b>eye</b> [1] - 33:24  <b>eyes</b> [1] - 44:14</p>	<p>46:3, 46:21  <b>factor</b> [5] - 20:11, 21:18, 32:3, 43:5, 46:18  <b>factors</b> [11] - 18:25, 19:24, 26:24, 28:24, 30:18, 30:23, 30:24, 42:25, 46:2, 52:3, 52:18  <b>facts</b> [6] - 22:2, 30:3, 31:21, 31:22, 51:24, 52:5  <b>factual</b> [6] - 15:19, 21:3, 27:23, 34:2, 51:11, 53:5  <b>fair</b> [7] - 11:24, 13:24, 14:1, 32:16, 46:1, 49:7, 50:25  <b>fairly</b> [3] - 11:12, 24:17, 32:19  <b>fairness</b> [1] - 18:6  <b>Fairness</b> [1] - 46:7  <b>FAIRNESS</b> [1] - 2:21  <b>faith</b> [2] - 12:19, 23:12  <b>far</b> [3] - 6:10, 41:17, 43:7  <b>favor</b> [2] - 43:5, 46:4  <b>feature</b> [1] - 54:21  <b>features</b> [1] - 25:8  <b>federal</b> [1] - 46:6  <b>fee</b> [27] - 5:25, 6:3, 8:1, 9:17, 10:15, 13:16, 13:20, 15:12, 16:5, 16:8, 24:2, 24:3, 25:5, 25:15, 25:18, 26:19, 26:24, 27:23, 28:23, 28:25, 30:10, 43:3, 47:18, 48:7, 50:16, 51:2, 52:16  <b>fee-setting</b> [1] - 13:16  <b>fees</b> [8] - 12:8, 14:3, 24:8, 25:23, 29:24, 34:22, 41:8, 41:23  <b>felt</b> [4] - 30:14, 35:8, 46:8, 46:10  <b>few</b> [4] - 41:1, 48:10, 55:9, 55:25  <b>fictional</b> [3] - 50:17, 51:14, 51:15  <b>field</b> [1] - 42:10  <b>fighting</b> [6] - 22:21, 24:22, 37:19, 37:20, 44:13  <b>figure</b> [2] - 30:7, 45:25  <b>filigree</b> [1] - 26:8  <b>filing</b> [1] - 10:15  <b>final</b> [4] - 26:1,</p>
<b>E</b>				
<b>E.K</b> [1] - 1:11				
<b>F</b>				
<p><b>facetious</b> [1] - 21:8  <b>fact</b> [19] - 7:3, 7:6, 7:11, 7:12, 12:25, 14:17, 16:10, 18:12, 21:20, 23:21, 24:11, 25:11, 26:12, 31:15, 32:6, 32:7, 41:14,</p>				



35:25, 55:12, 55:14 <b>financial</b> [8] - 4:23, 5:3, 5:9, 5:10, 54:24, 55:19, 55:22, 56:8 <b>findings</b> [5] - 24:11, 26:11, 34:2, 34:9, 51:9 <b>fine</b> [3] - 41:9, 53:17, 56:23 <b>FINE</b> [1] - 2:2 <b>finish</b> [1] - 37:12 <b>first</b> [7] - 4:24, 7:1, 15:11, 19:21, 30:10, 52:5, 55:21 <b>fish</b> [1] - 55:7 <b>five</b> [2] - 25:13, 36:3 <b>five-dollar</b> [1] - 36:3 <b>fixing</b> [1] - 8:7 <b>Floor</b> [1] - 2:8 <b>flyspecked</b> [1] - 8:10 <b>focus</b> [2] - 17:15, 47:22 <b>focused</b> [2] - 18:10, 39:18 <b>follower</b> [1] - 22:14 <b>football</b> [1] - 14:18 <b>footnote</b> [2] - 43:10, 43:24 <b>FOR</b> [8] - 1:1, 1:14, 2:2, 2:7, 2:11, 2:16, 2:20, 2:21 <b>force</b> [4] - 26:3, 32:9, 37:16, 53:2 <b>forced</b> [3] - 41:4, 41:5, 42:13 <b>foregoing</b> [1] - 57:1 <b>form</b> [2] - 18:2, 47:12 <b>formula</b> [10] - 10:24, 18:16, 18:18, 18:20, 19:21, 20:4, 27:18, 29:9, 43:9, 54:5 <b>forth</b> [2] - 36:2, 36:3 <b>forthcoming</b> [1] - 12:18 <b>forward</b> [7] - 27:8, 30:5, 32:12, 37:14, 39:15, 47:6, 55:7 <b>fought</b> [2] - 22:20, 23:11 <b>foundation</b> [1] - 45:7 <b>four</b> [1] - 16:6 <b>Four</b> [1] - 2:12 <b>FRANK</b> [2] - 2:21, 3:8 <b>Frank</b> [4] - 4:18, 4:19, 26:25, 33:4 <b>Frank's</b> [2] - 5:18, 36:12 <b>frankly</b> [9] - 5:16, 10:20, 24:19, 29:3,	34:23, 48:22, 52:4, 54:4, 55:6 <b>fraud</b> [1] - 20:9 <b>fraudulent</b> [1] - 31:25 <b>free</b> [1] - 40:8 <b>frequently</b> [1] - 24:18 <b>front</b> [2] - 34:14, 35:24 <b>frustration</b> [2] - 31:2, 36:5 <b>full</b> [4] - 7:7, 10:16, 11:6, 25:23 <b>fully</b> [1] - 15:19 <b>fun</b> [2] - 22:18, 40:16 <b>fund</b> [3] - 7:7, 8:24, 34:25 <b>fundamental</b> [3] - 8:1, 45:19, 47:22 <b>funds</b> [1] - 28:5 <b>fungible</b> [2] - 9:11, 9:13 <b>future</b> [2] - 17:23, 35:15	<b>Greg</b> [3] - 4:15, 29:20, 54:23 <b>GREGORY</b> [1] - 2:16 <b>grind</b> [2] - 22:11, 29:22 <b>GROUP</b> [1] - 2:7 <b>group</b> [1] - 48:21 <b>guard</b> [1] - 33:5 <b>guess</b> [6] - 17:6, 35:20, 36:9, 41:3, 47:12, 50:4 <b>guide</b> [1] - 39:7 <b>guys</b> [2] - 39:12, 49:25	<b>hints</b> [1] - 31:20 <b>hired</b> [1] - 17:21 <b>history</b> [2] - 8:3, 40:18 <b>hold</b> [1] - 14:12 <b>holdups</b> [1] - 17:11 <b>homework</b> [3] - 36:9, 40:19, 54:8 <b>honest</b> [1] - 34:10 <b>honestly</b> [3] - 22:25, 35:9, 52:7 <b>Honor</b> [62] - 4:7, 4:9, 4:11, 4:13, 4:15, 4:22, 5:2, 5:5, 5:8, 5:20, 6:7, 7:11, 10:2, 10:3, 10:8, 13:9, 14:22, 15:5, 16:11, 17:3, 17:19, 23:3, 24:10, 25:2, 26:9, 26:22, 29:17, 29:20, 30:3, 30:18, 30:23, 31:18, 32:17, 36:7, 36:10, 36:17, 37:5, 37:22, 38:24, 39:4, 39:17, 41:4, 43:10, 46:18, 46:19, 48:12, 48:15, 48:18, 51:23, 54:23, 55:2, 55:3, 55:11, 55:16, 55:20, 55:21, 56:10, 56:15, 56:20, 56:21, 56:22 <b>Honor's</b> [1] - 33:14 <b>HONORABLE</b> [1] - 1:11 <b>honorable</b> [2] - 12:17, 22:20 <b>hopefully</b> [1] - 26:12 <b>hounded</b> [1] - 31:11 <b>hours</b> [1] - 54:12 <b>huge</b> [1] - 44:16 <b>hundreds</b> [1] - 20:6 <b>hurt</b> [2] - 32:11, 32:12	18:3 <b>IN</b> [2] - 1:1, 1:3 <b>Inc</b> [1] - 4:16 <b>INC</b> [2] - 1:4, 2:16 <b>include</b> [1] - 30:24 <b>including</b> [2] - 24:15, 43:12 <b>inclusion</b> [2] - 13:3, 54:14 <b>incompetent</b> [1] - 42:3 <b>incorrect</b> [1] - 44:1 <b>indefinite</b> [1] - 46:25 <b>individual</b> [3] - 41:22, 44:9, 56:11 <b>information</b> [9] - 23:24, 24:14, 25:5, 25:10, 25:14, 31:23, 51:8, 53:5, 55:11 <b>inherent</b> [1] - 8:25 <b>initial</b> [2] - 13:4, 33:14 <b>injunction</b> [1] - 25:6 <b>injunctive</b> [20] - 10:19, 10:21, 17:3, 17:13, 17:15, 18:18, 20:2, 21:5, 24:15, 30:25, 31:2, 34:17, 34:18, 43:7, 43:15, 43:17, 43:20, 43:21, 52:2, 54:14 <b>innocent</b> [1] - 52:7 <b>input</b> [1] - 53:19 <b>insecticides</b> [1] - 44:25 <b>insightful</b> [1] - 5:17 <b>instead</b> [1] - 44:21 <b>INSTITUTE</b> [1] - 2:20 <b>institution</b> [3] - 4:23, 55:19, 56:8 <b>institutions</b> [4] - 5:3, 5:9, 5:11, 54:25 <b>instructed</b> [1] - 15:10 <b>instructions</b> [1] - 4:18 <b>intend</b> [1] - 25:21 <b>intended</b> [1] - 24:13 <b>interest</b> [9] - 6:18, 8:25, 9:2, 11:11, 27:5, 30:4, 32:20, 37:13, 38:7 <b>interested</b> [2] - 50:11, 50:12 <b>interesting</b> [2] - 21:16, 25:3 <b>interests</b> [3] - 12:18, 12:25, 13:5 <b>interpretation</b> [2] - 8:14, 42:16				
<b>G</b>								
<b>gaps</b> [2] - 53:7, 53:23 <b>Gary</b> [1] - 4:22 <b>GARY</b> [1] - 3:3 <b>gas</b> [1] - 18:22 <b>gatekeeper</b> [1] - 53:18 <b>gathering</b> [1] - 4:4 <b>gdever@finekaplan</b> <b>.com</b> [1] - 2:6 <b>GENE</b> [1] - 1:11 <b>general</b> [1] - 51:20 <b>generally</b> [1] - 43:19 <b>GERARD</b> [1] - 2:3 <b>gift</b> [14] - 18:2, 18:6, 18:9, 25:11, 25:12, 28:6, 32:14, 36:3, 46:4, 46:9, 46:22, 49:11, 52:14 <b>gimmick</b> [1] - 40:4 <b>given</b> [1] - 14:17 <b>glad</b> [2] - 14:1, 23:13 <b>goods</b> [1] - 18:22 <b>governs</b> [1] - 46:7 <b>gparks@</b> <b>morganlewis.com</b> [1] - 2:18 <b>great</b> [2] - 4:20, 46:14 <b>greatly</b> [1] - 16:10 <b>GREENBERG</b> [1] - 3:7	<b>H</b>							
<b>I</b>								
<b>idea</b> [3] - 18:20, 24:20, 41:3 <b>identify</b> [1] - 47:1 <b>Illinois</b> [1] - 46:14 <b>imagine</b> [1] - 50:13 <b>immediate</b> [1] - 18:2 <b>impact</b> [1] - 12:5 <b>important</b> [14] - 20:11, 22:3, 23:20, 25:9, 25:21, 27:20, 27:21, 28:10, 31:9, 41:19, 41:22, 50:6, 51:16 <b>improve</b> [2] - 17:22,								

United States District Court

<p><b>invalid</b> <sup>[1]</sup> - 42:2</p> <p><b>invite</b> <sup>[1]</sup> - 53:8</p> <p><b>involved</b> <sup>[5]</sup> - 9:14, 12:17, 13:22, 41:16, 42:3</p> <p><b>irony</b> <sup>[2]</sup> - 25:1, 27:9</p> <p><b>issue</b> <sup>[8]</sup> - 7:16, 12:24, 26:15, 29:10, 32:21, 46:12, 46:18, 51:13</p> <p><b>issued</b> <sup>[1]</sup> - 53:8</p> <p><b>issues</b> <sup>[6]</sup> - 15:10, 15:21, 15:24, 19:19, 28:21, 29:10</p> <p><b>itself</b> <sup>[2]</sup> - 6:3, 46:2</p>	<p>24:1, 25:17, 33:20, 48:7</p> <p><b>large</b> <sup>[2]</sup> - 7:1, 27:5</p> <p><b>larger</b> <sup>[3]</sup> - 32:7, 32:9, 49:11</p> <p><b>last</b> <sup>[7]</sup> - 6:8, 10:9, 10:15, 19:10, 25:11, 33:2, 49:19</p> <p><b>lastly</b> <sup>[1]</sup> - 48:18</p> <p><b>lateraling</b> <sup>[1]</sup> - 14:18</p> <p><b>laundry</b> <sup>[1]</sup> - 26:2</p> <p><b>law</b> <sup>[4]</sup> - 16:11, 42:11, 46:6, 51:16</p> <p><b>LAW</b> <sup>[2]</sup> - 2:7, 2:20</p> <p><b>lawyers</b> <sup>[17]</sup> - 12:14, 12:17, 14:19, 17:17, 24:17, 27:15, 31:11, 32:22, 33:3, 34:15, 34:21, 38:17, 40:8, 41:15, 47:8, 53:1, 53:20</p> <p><b>lay</b> <sup>[2]</sup> - 45:7, 52:3</p> <p><b>LE</b> <sup>[3]</sup> - 9:14, 50:10, 50:11</p> <p><b>lead</b> <sup>[1]</sup> - 21:20</p> <p><b>leaders</b> <sup>[1]</sup> - 55:18</p> <p><b>learned</b> <sup>[1]</sup> - 41:18</p> <p><b>least</b> <sup>[4]</sup> - 14:4, 16:6, 52:17, 55:11</p> <p><b>leave</b> <sup>[1]</sup> - 50:22</p> <p><b>legal</b> <sup>[1]</sup> - 53:11</p> <p><b>legitimately</b> <sup>[1]</sup> - 8:11</p> <p><b>length</b> <sup>[2]</sup> - 8:15, 8:23</p> <p><b>less</b> <sup>[8]</sup> - 7:8, 25:13, 28:1, 28:4, 35:10, 35:13, 49:6, 51:4</p> <p><b>lesson</b> <sup>[1]</sup> - 41:18</p> <p><b>Levis</b> <sup>[1]</sup> - 5:10</p> <p><b>LEVIS</b> <sup>[2]</sup> - 3:2, 5:10</p> <p><b>Lewis</b> <sup>[1]</sup> - 4:16</p> <p><b>LEWIS</b> <sup>[1]</sup> - 2:16</p> <p><b>lid</b> <sup>[1]</sup> - 37:12</p> <p><b>LIEBENBERG</b> <sup>[19]</sup> - 2:3, 4:11, 23:3, 23:8, 23:17, 24:10, 25:2, 26:4, 26:9, 26:22, 27:20, 28:9, 28:19, 29:8, 29:15, 29:17, 50:1, 50:5, 56:21</p> <p><b>Liebenberg</b> <sup>[4]</sup> - 4:12, 19:10, 22:4, 27:14</p> <p><b>life</b> <sup>[2]</sup> - 56:4, 56:6</p> <p><b>light</b> <sup>[4]</sup> - 6:4, 18:24, 36:20, 47:21</p> <p><b>limits</b> <sup>[1]</sup> - 11:5</p> <p><b>LINCOLN</b> <sup>[1]</sup> - 2:20</p> <p><b>Linda</b> <sup>[1]</sup> - 4:9</p>	<p><b>LINDA</b> <sup>[1]</sup> - 2:8</p> <p><b>line</b> <sup>[3]</sup> - 42:24, 44:11, 54:10</p> <p><b>lines</b> <sup>[1]</sup> - 42:21</p> <p><b>lions</b> <sup>[1]</sup> - 40:7</p> <p><b>list</b> <sup>[3]</sup> - 11:6, 26:2, 33:7</p> <p><b>LITE</b> <sup>[1]</sup> - 3:7</p> <p><b>literally</b> <sup>[3]</sup> - 12:13, 49:4, 49:5</p> <p><b>litigants</b> <sup>[2]</sup> - 39:1, 45:2</p> <p><b>LITIGATION</b> <sup>[1]</sup> - 1:4</p> <p><b>litigation</b> <sup>[5]</sup> - 41:9, 41:10, 41:16, 41:24</p> <p><b>Litigation</b> <sup>[1]</sup> - 4:5</p> <p><b>live</b> <sup>[1]</sup> - 32:24</p> <p><b>LLC</b> <sup>[2]</sup> - 2:11, 3:7</p> <p><b>LLP</b> <sup>[3]</sup> - 2:16, 3:4, 3:5</p> <p><b>Inussbaum@nussbaumpc.com</b> <sup>[1]</sup> - 2:10</p> <p><b>lodestar</b> <sup>[1]</sup> - 35:5</p> <p><b>look</b> <sup>[31]</sup> - 8:25, 16:13, 16:15, 16:22, 18:24, 18:25, 19:8, 19:24, 23:20, 23:22, 24:11, 25:3, 28:16, 29:9, 30:15, 30:16, 30:23, 31:21, 32:10, 33:11, 34:8, 35:16, 35:20, 37:17, 40:1, 42:18, 42:20, 42:22, 43:1, 45:21, 46:20</p> <p><b>looked</b> <sup>[5]</sup> - 19:1, 19:2, 19:25, 31:18</p> <p><b>looking</b> <sup>[8]</sup> - 19:23, 22:18, 30:10, 34:19, 34:20, 39:5, 43:5, 46:5</p> <p><b>lost</b> <sup>[1]</sup> - 54:18</p> <p><b>love</b> <sup>[1]</sup> - 38:24</p> <p><b>low</b> <sup>[1]</sup> - 35:3</p> <p><b>LOWEY</b> <sup>[1]</sup> - 3:2</p> <p><b>loyal</b> <sup>[1]</sup> - 17:5</p> <p><b>loyalty</b> <sup>[2]</sup> - 47:3, 47:13</p> <p><b>Lynch</b> <sup>[1]</sup> - 4:22</p> <p><b>LYNCH</b> <sup>[4]</sup> - 3:3, 3:4, 4:22, 5:1</p>	<p>51:20</p> <p><b>major</b> <sup>[3]</sup> - 17:23, 20:10, 41:10</p> <p><b>mandate</b> <sup>[2]</sup> - 18:13, 48:17</p> <p><b>maritime</b> <sup>[1]</sup> - 39:7</p> <p><b>Market</b> <sup>[3]</sup> - 1:8, 1:15, 2:17</p> <p><b>material</b> <sup>[3]</sup> - 22:15, 29:5, 53:21</p> <p><b>mathematical</b> <sup>[1]</sup> - 18:20</p> <p><b>matter</b> <sup>[5]</sup> - 8:6, 26:16, 27:4, 41:20, 57:2</p> <p><b>McCollum</b> <sup>[3]</sup> - 1:18, 57:4, 57:5</p> <p><b>mean</b> <sup>[18]</sup> - 9:22, 9:25, 10:10, 11:22, 13:8, 18:4, 18:25, 22:9, 22:13, 26:19, 27:1, 38:23, 41:12, 41:21, 47:7, 53:25</p> <p><b>meaning</b> <sup>[1]</sup> - 31:23</p> <p><b>means</b> <sup>[3]</sup> - 24:6, 24:18, 39:1</p> <p><b>meant</b> <sup>[3]</sup> - 8:19, 31:24, 48:1</p> <p><b>measure</b> <sup>[1]</sup> - 45:14</p> <p><b>mediation</b> <sup>[2]</sup> - 38:2, 38:4</p> <p><b>mediator</b> <sup>[1]</sup> - 54:12</p> <p><b>meet</b> <sup>[1]</sup> - 44:15</p> <p><b>meets</b> <sup>[1]</sup> - 26:20</p> <p><b>melody</b> <sup>[1]</sup> - 47:17</p> <p><b>member</b> <sup>[1]</sup> - 27:2</p> <p><b>members</b> <sup>[8]</sup> - 9:4, 16:10, 18:1, 28:6, 43:1, 47:13, 49:10, 51:18</p> <p><b>mention</b> <sup>[6]</sup> - 8:19, 43:8, 43:15, 43:17, 43:19, 48:10</p> <p><b>mentioned</b> <sup>[1]</sup> - 42:25</p> <p><b>merely</b> <sup>[2]</sup> - 24:12, 27:23</p> <p><b>metaphor</b> <sup>[1]</sup> - 39:7</p> <p><b>might</b> <sup>[7]</sup> - 7:18, 7:19, 31:24, 45:12, 45:13, 46:2, 52:18</p> <p><b>million</b> <sup>[19]</sup> - 8:23, 10:16, 10:17, 20:7, 20:10, 20:21, 21:3, 28:5, 31:1, 34:19, 34:20, 34:24, 34:25, 44:2, 49:20, 51:3, 52:16</p> <p><b>MINDEE</b> <sup>[1]</sup> - 3:6</p> <p><b>mindee</b> <sup>[1]</sup> - 5:2</p>	<p><b>minds</b> <sup>[1]</sup> - 37:10</p> <p><b>minor</b> <sup>[1]</sup> - 42:2</p> <p><b>minus</b> <sup>[1]</sup> - 21:25</p> <p><b>misconstruction</b> <sup>[1]</sup> - 16:3</p> <p><b>misconstrued</b> <sup>[1]</sup> - 15:9</p> <p><b>missed</b> <sup>[1]</sup> - 22:16</p> <p><b>missing</b> <sup>[1]</sup> - 22:12</p> <p><b>misspoke</b> <sup>[1]</sup> - 48:1</p> <p><b>modest</b> <sup>[1]</sup> - 43:11</p> <p><b>money</b> <sup>[11]</sup> - 32:7, 32:9, 32:10, 32:13, 49:6, 49:8, 51:14, 51:17, 52:1, 52:14, 54:18</p> <p><b>MONTAGUE</b> <sup>[1]</sup> - 1:14</p> <p><b>month</b> <sup>[1]</sup> - 37:7</p> <p><b>Morgan</b> <sup>[1]</sup> - 4:15</p> <p><b>MORGAN</b> <sup>[1]</sup> - 2:16</p> <p><b>morning</b> <sup>[1]</sup> - 38:4</p> <p><b>most</b> <sup>[4]</sup> - 18:4, 19:25, 20:7, 51:25</p> <p><b>mostly</b> <sup>[1]</sup> - 18:21</p> <p><b>mouth</b> <sup>[1]</sup> - 32:10</p> <p><b>moving</b> <sup>[1]</sup> - 30:5</p> <p><b>MR</b> <sup>[116]</sup> - 4:7, 4:15, 4:17, 4:22, 5:1, 5:10, 5:20, 5:22, 5:24, 6:12, 6:14, 6:16, 6:25, 7:5, 7:25, 8:13, 8:21, 9:3, 9:8, 9:12, 9:16, 9:22, 9:25, 10:7, 10:10, 10:13, 10:21, 10:25, 11:2, 11:9, 11:13, 11:18, 11:22, 12:5, 12:8, 12:11, 12:23, 13:3, 13:8, 13:14, 13:19, 13:24, 14:2, 14:7, 14:11, 14:16, 14:20, 14:25, 19:6, 29:20, 30:2, 30:21, 31:5, 31:8, 32:2, 33:6, 33:25, 34:5, 36:7, 36:15, 36:20, 37:22, 37:25, 38:14, 38:16, 38:22, 38:24, 39:4, 39:13, 39:22, 40:5, 40:8, 40:10, 40:13, 40:17, 40:22, 41:1, 41:3, 41:21, 42:4, 43:17, 43:19, 43:23, 44:18, 45:7, 45:11, 45:18, 46:1, 46:10, 46:17, 47:2, 47:6, 47:11, 47:18, 47:21, 47:25, 48:5, 49:1, 49:4, 49:7, 49:10, 49:16, 49:19, 49:24,</p>
<p><b>J</b></p> <p><b>James</b> <sup>[1]</sup> - 1:7</p> <p><b>January</b> <sup>[1]</sup> - 53:8</p> <p><b>Jeannine</b> <sup>[1]</sup> - 5:8</p> <p><b>JEANNINE</b> <sup>[1]</sup> - 3:5</p> <p><b>job</b> <sup>[3]</sup> - 35:2, 52:5, 53:17</p> <p><b>JOHNS</b> <sup>[3]</sup> - 2:11, 2:12, 4:7</p> <p><b>Johns</b> <sup>[3]</sup> - 4:7, 31:11, 31:15</p> <p><b>JOSEPH</b> <sup>[1]</sup> - 1:14</p> <p><b>judge</b> <sup>[1]</sup> - 33:23</p> <p><b>Judge</b> <sup>[7]</sup> - 8:19, 9:9, 13:18, 13:19, 13:20, 23:12, 46:13</p> <p><b>judges</b> <sup>[2]</sup> - 34:1, 41:18</p> <p><b>judicial</b> <sup>[1]</sup> - 37:21</p> <p><b>juncture</b> <sup>[2]</sup> - 38:19</p>	<p><b>K</b></p> <p><b>KAPLAN</b> <sup>[1]</sup> - 2:2</p> <p><b>keep</b> <sup>[1]</sup> - 29:19</p> <p><b>keeping</b> <sup>[1]</sup> - 53:3</p> <p><b>KENNEY</b> <sup>[2]</sup> - 3:5, 5:8</p> <p><b>Kenney</b> <sup>[1]</sup> - 5:8</p> <p><b>kettle</b> <sup>[1]</sup> - 55:7</p> <p><b>kicker</b> <sup>[10]</sup> - 7:10, 7:12, 13:4, 22:6, 25:19, 33:10, 35:18, 37:1, 41:6, 52:7</p> <p><b>kind</b> <sup>[8]</sup> - 30:9, 32:9, 35:16, 35:19, 36:1, 41:16, 50:8, 53:14</p>	<p><b>M</b></p> <p><b>machinations</b> <sup>[1]</sup> - 18:16</p> <p><b>magically</b> <sup>[1]</sup> - 54:5</p> <p><b>Magistrate</b> <sup>[1]</sup> - 23:12</p> <p><b>main</b> <sup>[2]</sup> - 6:25,</p>	<p><b>L</b></p> <p><b>label</b> <sup>[1]</sup> - 33:10</p> <p><b>laid</b> <sup>[1]</sup> - 46:2</p> <p><b>language</b> <sup>[5]</sup> - 23:22,</p>	

United States District Court

50:14, 50:20, 50:25, 54:23, 55:9, 56:2, 56:5, 56:7, 56:10, 56:15, 56:18, 56:22 <b>MS</b> [46] - 4:9, 4:11, 4:13, 5:2, 5:5, 5:8, 15:5, 15:8, 15:15, 15:18, 16:2, 17:18, 17:21, 18:8, 18:12, 18:19, 19:15, 20:5, 20:20, 20:24, 21:2, 21:10, 21:14, 21:18, 22:2, 23:3, 23:8, 23:17, 24:10, 25:2, 26:4, 26:9, 26:22, 27:20, 28:9, 28:19, 29:8, 29:15, 29:17, 50:1, 50:3, 50:5, 50:6, 51:10, 56:20, 56:21 <b>MULLER</b> [1] - 1:14 <b>must</b> [3] - 7:17, 7:21, 53:6	<b>news</b> [1] - 40:12 <b>next</b> [2] - 6:23, 33:4 <b>Nice</b> [2] - 5:4, 5:5 <b>nice</b> [1] - 5:6 <b>night</b> [1] - 38:5 <b>nine</b> [1] - 38:4 <b>NJ</b> [1] - 1:18 <b>NO</b> [1] - 1:3 <b>nobody</b> [1] - 14:25 <b>nondelegable</b> [1] - 14:2 <b>none</b> [4] - 14:25, 22:6, 23:10, 28:19 <b>nonmonetary</b> [1] - 54:15 <b>normally</b> [1] - 30:19 <b>Northern</b> [1] - 46:14 <b>Note</b> [1] - 24:5 <b>noted</b> [1] - 4:21 <b>nothing</b> [2] - 11:5, 22:19 <b>notice</b> [2] - 55:1, 55:15 <b>notion</b> [3] - 22:10, 37:19, 38:12 <b>nowhere</b> [1] - 31:3 <b>number</b> [14] - 7:9, 20:16, 25:12, 30:18, 30:22, 35:4, 35:8, 35:13, 37:11, 41:18, 42:14, 42:15, 44:23 <b>NUSSBAUM</b> [3] - 2:7, 2:8, 4:9 <b>Nussbaum</b> [1] - 4:10 <b>NW</b> [1] - 2:22 <b>NY</b> [1] - 2:9	<b>obligate</b> [1] - 44:4 <b>obligation</b> [1] - 33:11 <b>observations</b> [1] - 40:24 <b>obviously</b> [2] - 7:2, 42:6 <b>occurs</b> [1] - 21:7 <b>OF</b> [1] - 1:1 <b>off-limits</b> [1] - 11:5 <b>offer</b> [10] - 11:24, 15:4, 49:21, 50:15, 50:18, 50:19, 50:20, 50:21, 50:22, 54:22 <b>offered</b> [3] - 16:13, 19:1, 19:9 <b>offers</b> [1] - 16:23 <b>Official</b> [2] - 1:19, 57:5 <b>often</b> [1] - 35:24 <b>old</b> [1] - 24:24 <b>once</b> [1] - 38:5 <b>one</b> [33] - 7:9, 15:11, 17:6, 17:8, 18:4, 19:6, 19:25, 21:5, 21:8, 21:18, 22:4, 23:3, 24:16, 26:17, 33:5, 33:22, 37:11, 37:16, 39:20, 42:14, 44:24, 48:20, 48:21, 50:10, 51:20, 52:15, 52:17, 52:22, 53:15, 54:13, 55:15 <b>One</b> [1] - 2:4 <b>ones</b> [1] - 41:19 <b>onion</b> [1] - 33:13 <b>operating</b> [1] - 14:14 <b>opinion</b> [28] - 6:6, 6:23, 7:21, 8:9, 8:14, 8:15, 10:20, 14:3, 16:18, 24:5, 30:7, 30:12, 30:17, 31:4, 31:20, 33:8, 33:14, 36:21, 39:23, 42:16, 42:22, 45:20, 45:23, 48:17, 52:8, 53:6, 55:2, 55:10 <b>opposite</b> [1] - 16:12 <b>option</b> [1] - 16:24 <b>options</b> [1] - 16:23 <b>oral</b> [2] - 53:9, 53:10 <b>order</b> [8] - 4:1, 7:22, 8:10, 11:7, 26:7, 48:19, 53:21, 55:12 <b>orders</b> [1] - 48:21 <b>original</b> [3] - 26:24, 30:12, 53:7 <b>otherwise</b> [2] - 10:4, 51:22 <b>ought</b> [5] - 6:23, 36:23, 38:6, 39:9,	39:17 <b>ourselves</b> [1] - 36:16 <b>outline</b> [1] - 15:22 <b>overall</b> [1] - 13:23 <b>own</b> [8] - 24:5, 39:10, 42:1, 53:1, 55:8, 55:25, 56:3, 56:6	<b>P</b>	8:17, 25:21, 38:1 <b>parts</b> [2] - 18:5, 54:10 <b>party</b> [1] - 14:14 <b>pass</b> [1] - 40:14 <b>past</b> [1] - 37:5 <b>payment</b> [1] - 18:3 <b>PC</b> [3] - 1:14, 2:7, 3:2 <b>peculiar</b> [2] - 25:1, 26:5 <b>peel</b> [1] - 33:12 <b>pejorative</b> [2] - 27:6, 40:3 <b>pending</b> [1] - 48:8 <b>PENNSYLVANIA</b> [1] - 1:1 <b>Pennsylvania</b> [1] - 33:3 <b>people</b> [15] - 18:9, 24:20, 26:3, 27:6, 31:24, 32:3, 32:5, 32:11, 32:12, 34:11, 39:14, 47:1, 51:21, 52:16, 54:16 <b>per</b> [5] - 4:18, 14:13, 16:8, 16:15, 52:20 <b>percent</b> [8] - 10:16, 10:22, 10:23, 21:21, 21:23, 21:25, 25:12, 49:20 <b>percentage</b> [2] - 16:19, 19:1 <b>percentage-based</b> [1] - 16:19 <b>perhaps</b> [6] - 9:15, 22:20, 22:21, 22:22, 22:23, 22:24 <b>period</b> [1] - 38:1 <b>person</b> [1] - 12:17 <b>personally</b> [1] - 29:15 <b>perspective</b> [3] - 6:24, 30:8, 43:4 <b>perspectives</b> [1] - 15:4 <b>persuasion</b> [1] - 41:15 <b>petition</b> [2] - 24:1, 27:24 <b>ph</b> [1] - 48:9 <b>Philadelphia</b> [4] - 1:8, 1:15, 2:4, 2:17 <b>philosophical</b> [1] - 37:14 <b>philosophically</b> [2] - 37:10, 39:3 <b>pick</b> [1] - 51:24 <b>piece</b> [2] - 30:10, 33:24 <b>pieces</b> [2] - 30:9,	
<b>N</b>	<b>necessary</b> [1] - 23:24 <b>need</b> [10] - 5:19, 10:9, 11:6, 14:9, 23:4, 32:4, 36:8, 39:20, 41:9, 53:11 <b>needs</b> [11] - 8:25, 13:16, 14:6, 22:17, 23:1, 26:7, 46:23, 47:17, 47:18, 53:6, 53:21 <b>nefariously</b> [1] - 22:6 <b>negative</b> [6] - 21:22, 21:23, 21:25, 33:5, 35:5, 52:11 <b>negotiate</b> [1] - 35:22 <b>negotiated</b> [6] - 7:20, 8:11, 10:14, 12:16, 34:25 <b>negotiating</b> [7] - 7:17, 8:5, 8:9, 13:23, 34:15, 34:22, 35:23 <b>negotiation</b> [5] - 8:16, 8:23, 23:11, 36:1, 36:4 <b>negotiations</b> [5] - 11:3, 11:5, 11:19, 12:2, 35:5 <b>neophyte</b> [1] - 46:16 <b>net</b> [2] - 7:22, 54:20 <b>never</b> [7] - 6:17, 19:12, 26:12, 27:25, 28:20, 40:22 <b>New</b> [1] - 2:9 <b>new</b> [2] - 48:14, 52:8	<b>O</b>	<b>oath</b> [3] - 27:15, 47:9, 47:10 <b>obdurate</b> [2] - 44:10, 44:12 <b>object</b> [3] - 24:3, 25:18, 27:2 <b>objected</b> [1] - 52:16 <b>objecting</b> [1] - 42:7 <b>objection</b> [2] - 6:2, 49:12 <b>OBJECTOR</b> [2] - 2:20, 3:8 <b>objector</b> [8] - 4:18, 33:9, 35:16, 35:17, 42:7, 50:12, 52:15 <b>objector's</b> [3] - 16:7, 28:11, 29:1 <b>objectors</b> [9] - 17:10, 17:11, 27:7, 27:8, 39:15, 39:19, 39:21, 42:8, 50:12			



40:15  
**place** [4] - 6:1, 18:11, 20:19, 45:1  
**plaintiff** [1] - 41:25  
**PLAINTIFF** [1] - 1:14  
**plaintiffs** [5] - 4:8, 4:10, 4:12, 4:14, 4:23  
**PLAINTIFFS** [3] - 2:3, 2:8, 2:12  
**plaintiffs'** [8] - 11:23, 14:18, 31:10, 32:22, 34:15, 34:21, 38:17, 47:8  
**plaintive** [1] - 45:16  
**plan** [1] - 45:1  
**plug** [4] - 18:18, 20:4, 20:5, 54:19  
**plus** [1] - 34:19  
**pocket** [1] - 29:24  
**podium** [1] - 5:22  
**point** [10] - 18:1, 19:10, 21:23, 30:13, 42:14, 42:23, 47:15, 48:3, 48:4, 48:5  
**pointed** [2] - 17:3, 33:9  
**points** [2] - 51:11, 51:20  
**poised** [1] - 55:1  
**policy** [1] - 43:4  
**position** [3] - 13:24, 14:21, 49:19  
**possibility** [1] - 32:5  
**possible** [1] - 44:10  
**possibly** [1] - 34:20  
**potential** [1] - 14:21  
**potentially** [1] - 44:20  
**practical** [5] - 7:15, 10:12, 26:20, 33:1, 54:21  
**practicality** [1] - 47:16  
**practice** [1] - 8:4  
**practices** [2] - 18:10, 44:6  
**PRATTER** [1] - 1:11  
**pray** [1] - 12:4  
**precedent** [1] - 10:22  
**precisely** [2] - 34:3, 46:15  
**precluded** [1] - 48:16  
**preliminary** [3] - 17:25, 26:1, 35:25  
**prepare** [1] - 51:11  
**prepared** [3] - 1:24, 15:2, 55:19  
**preparing** [1] - 23:25  
**presence** [4] - 4:21, 15:13, 33:18, 37:3

**PRESENT** [1] - 3:1  
**present** [1] - 15:25  
**pretend** [1] - 19:13  
**pretty** [6] - 13:22, 22:14, 29:15, 30:13, 35:6, 38:1  
**prevent** [1] - 45:12  
**previously** [1] - 55:16  
**price** [1] - 8:7  
**principal** [3] - 9:3, 9:15, 50:15  
**principally** [1] - 17:15  
**principals** [1] - 50:10  
**principle** [1] - 9:14  
**principles** [1] - 50:11  
**proactive** [1] - 45:1  
**problem** [6] - 11:11, 11:13, 42:12, 44:15, 44:16, 51:2  
**problems** [1] - 37:17  
**procedures** [1] - 20:14  
**Proceeding** [1] - 56:24  
**proceeding** [1] - 8:2  
**Proceedings** [1] - 1:24  
**proceedings** [1] - 57:2  
**process** [5] - 41:8, 42:10, 48:6, 48:8, 54:19  
**product** [2] - 28:14, 36:3  
**productive** [3] - 38:19, 45:16, 48:23  
**products** [1] - 25:13  
**Products** [1] - 48:9  
**profession** [1] - 37:15  
**proof** [1] - 41:14  
**proper** [1] - 16:22  
**properly** [2] - 12:16, 28:25  
**proportion** [1] - 51:2  
**proposal** [2] - 15:23, 37:8  
**proposed** [3] - 11:24, 48:19, 51:7  
**protect** [2] - 20:15, 32:5  
**prove** [1] - 33:5  
**provide** [5] - 15:21, 24:13, 25:4, 26:11, 28:4  
**provided** [2] - 25:6, 25:10  
**provides** [1] - 18:1

**providing** [1] - 23:24  
**provision** [9] - 7:12, 13:4, 24:13, 25:16, 33:10, 33:16, 35:11, 39:25, 42:9  
**provisions** [3] - 7:10, 37:2, 42:5  
**public** [1] - 6:17  
**purchased** [1] - 25:13  
**purported** [5] - 15:20, 15:24, 19:11, 22:5, 23:19  
**purpose** [2] - 33:18, 37:2  
**pursuant** [1] - 53:6  
**put** [22] - 7:1, 9:5, 18:11, 20:19, 20:24, 21:3, 27:23, 30:3, 32:10, 32:12, 32:15, 34:14, 35:11, 35:14, 36:13, 36:25, 37:4, 37:12, 50:7, 51:1, 51:5, 54:7  
**puts** [2] - 22:6, 44:3  
**putting** [1] - 19:12  
**puzzling** [1] - 33:22

## Q

**qualitative** [2] - 29:6, 29:7  
**quality** [2] - 7:13, 13:14  
**quantitative** [1] - 29:7  
**questioning** [1] - 50:7  
**questions** [1] - 34:7  
**quickly** [1] - 22:22  
**quite** [5] - 7:22, 38:15, 51:16, 52:3, 52:11  
**quote** [1] - 25:1  
**quotient** [1] - 47:16  
**quoting** [1] - 16:17

## R

**raised** [4] - 28:20, 39:18, 46:17  
**rate** [2] - 19:2, 25:12  
**rather** [12] - 10:22, 24:19, 32:16, 33:19, 37:3, 38:23, 42:19, 45:22, 46:4, 46:5, 46:22, 53:25  
**ratio** [2] - 51:1, 51:5  
**RE** [1] - 1:3  
**Re** [1] - 4:5

**reach** [1] - 38:6  
**reached** [2] - 8:22, 38:20  
**read** [8] - 6:5, 7:21, 17:25, 30:6, 33:8, 39:23, 40:20, 45:20  
**reading** [1] - 46:1  
**reality** [1] - 9:9  
**realize** [1] - 46:24  
**really** [19] - 6:20, 11:13, 11:15, 12:23, 18:10, 20:9, 20:10, 20:11, 23:7, 23:20, 32:4, 34:23, 35:1, 35:3, 35:7, 35:8, 52:4, 52:19, 53:11  
**reapproved** [1] - 55:17  
**rear** [3] - 8:6, 41:14, 41:25  
**rear-end** [3] - 8:6, 41:14, 41:25  
**reason** [2] - 31:17, 43:7  
**reasonable** [2] - 10:15, 13:20  
**reasonableness** [15] - 6:4, 15:12, 16:5, 16:8, 16:19, 16:22, 18:25, 19:4, 19:24, 21:19, 25:5, 25:14, 52:3, 52:17, 52:24  
**reasonably** [1] - 23:25  
**reasons** [1] - 44:19  
**received** [1] - 39:24  
**recitation** [1] - 27:23  
**recognize** [1] - 7:19  
**recollection** [1] - 36:6  
**reconsider** [1] - 45:20  
**reconsideration** [1] - 6:4  
**record** [10] - 6:17, 15:19, 20:21, 20:22, 22:12, 26:14, 28:24, 30:4, 44:1, 57:2  
**redeemed** [1] - 46:6  
**reduce** [2] - 26:19, 44:20  
**reduced** [1] - 45:5  
**reference** [2] - 10:19, 16:19  
**referring** [1] - 25:7  
**regular** [1] - 41:8  
**reintroducing** [2] - 41:5, 42:13  
**rejected** [3] - 8:9, 16:7, 50:3

**relative** [1] - 30:10  
**relevant** [1] - 25:5  
**relief** [23] - 10:19, 10:21, 17:3, 17:13, 17:15, 18:18, 20:2, 21:5, 24:14, 24:15, 30:25, 31:3, 34:17, 34:18, 43:7, 43:15, 43:17, 43:20, 43:21, 46:3, 52:2, 54:14, 54:15  
**remains** [1] - 17:2  
**remand** [2] - 15:10, 32:18  
**remanded** [1] - 15:19  
**remedial** [2] - 44:21, 45:14  
**reminder** [1] - 31:15  
**removed** [2] - 7:11, 9:19  
**repeat** [3] - 17:5, 18:21, 25:9  
**repeatedly** [1] - 16:4  
**reply** [1] - 45:17  
**Reporter** [2] - 1:19, 57:5  
**reports** [1] - 31:12  
**represent** [1] - 51:21  
**representation** [3] - 7:14, 13:15  
**represented** [1] - 51:22  
**request** [4] - 14:13, 23:25, 24:7, 42:11  
**require** [2] - 24:13, 47:13  
**required** [2] - 23:23, 42:18  
**requirements** [1] - 44:3  
**requires** [3] - 41:14, 41:15, 55:15  
**requiring** [1] - 54:3  
**reread** [1] - 30:6  
**research** [1] - 21:9  
**reserve** [1] - 24:25  
**resistant** [1] - 41:4  
**resolution** [4] - 10:14, 11:7, 11:25, 22:20  
**respect** [7] - 15:20, 22:10, 23:14, 23:19, 25:6, 25:10, 29:10  
**respectful** [1] - 12:18  
**respond** [3] - 14:10, 26:9, 50:2  
**responded** [1] - 49:25  
**responses** [1] - 37:7  
**result** [9] - 7:22,

12:16, 17:16, 22:25,  
35:2, 53:23, 54:19,  
54:20  
**results** [1] - 48:8  
**return** [1] - 47:16  
**returned** [1] - 13:12  
**REUBEN** [3] - 3:6,  
5:2, 5:5  
**Reuben** [2] - 5:3, 5:7  
**reveal** [2] - 11:2,  
11:4  
**reverse** [1] - 9:15  
**reversion** [3] - 9:19,  
25:23, 37:1  
**reverter** [8] - 15:21,  
15:24, 19:18, 22:5,  
33:10, 33:15, 35:18,  
39:24  
**reverters** [2] - 19:11,  
19:23  
**review** [4] - 11:17,  
14:3, 26:23, 28:23  
**revised** [1] - 30:17  
**revising** [1] - 17:10  
**rid** [1] - 9:17  
**rliebenberger@**  
**finekaplan.com** [1] -  
2:5  
**road** [1] - 26:21  
**roadmap** [3] - 10:6,  
10:12, 36:12  
**ROBERTA** [1] - 2:3  
**rock** [1] - 39:16  
**Roman** [3] - 40:5,  
40:7, 40:11  
**routine** [2] - 22:13,  
22:14  
**RPC** [1] - 2:2  
**RPR** [2] - 1:18, 57:5  
**rubber** [1] - 26:20  
**Rule** [4] - 17:10,  
27:3, 39:14, 46:15  
**rule** [3] - 16:8, 16:15,  
52:21  
**ruled** [1] - 7:11  
**rules** [4] - 17:9, 27:3,  
46:12, 46:13

## S

**safest** [1] - 23:6  
**sailing** [17] - 7:10,  
13:3, 13:10, 15:20,  
15:24, 23:19, 23:21,  
24:4, 24:6, 33:9,  
33:16, 35:18, 37:1,  
39:25, 41:6, 42:5,  
42:9  
**sake** [1] - 44:13  
**satisfied** [1] - 11:7

**sauce** [1] - 54:4  
**save** [2] - 45:5, 45:6  
**Savett** [4] - 4:14,  
25:7, 27:21, 48:11  
**SAVETT** [25] - 1:14,  
4:13, 15:5, 15:8,  
15:15, 15:18, 16:2,  
17:18, 17:21, 18:8,  
18:12, 18:19, 19:15,  
20:5, 20:20, 20:24,  
21:2, 21:10, 21:14,  
21:18, 22:2, 50:3,  
50:6, 51:10, 56:20  
**scales** [1] - 44:14  
**scenario** [1] - 39:14  
**schedule** [1] - 14:22  
**scheme** [1] - 44:21  
**SCHULMAN** [76] -  
2:21, 4:17, 5:20, 5:22,  
5:24, 6:12, 6:14, 6:16,  
6:25, 7:5, 7:25, 8:13,  
8:21, 9:3, 9:8, 9:12,  
9:16, 9:22, 9:25, 10:7,  
10:10, 10:13, 10:21,  
10:25, 11:2, 11:9,  
11:13, 11:18, 11:22,  
12:5, 12:8, 12:11,  
12:23, 13:3, 13:8,  
13:14, 13:19, 13:24,  
14:2, 14:7, 14:11,  
14:16, 14:20, 14:25,  
19:6, 41:1, 41:3,  
41:21, 42:4, 43:17,  
43:19, 43:23, 44:18,  
45:7, 45:11, 45:18,  
46:1, 46:10, 46:17,  
47:2, 47:6, 47:11,  
47:18, 47:21, 47:25,  
48:5, 49:1, 49:4, 49:7,  
49:10, 49:16, 49:19,  
49:24, 50:14, 50:20,  
50:25  
**Schulman** [6] - 4:17,  
15:8, 16:3, 22:6,  
23:13, 29:13  
**scope** [1] - 24:14  
**scratch** [1] - 33:12  
**se** [3] - 16:8, 16:15,  
52:20  
**search** [2] - 25:17,  
36:11  
**searching** [1] - 39:11  
**season** [1] - 14:18  
**seat** [1] - 15:3  
**seats** [1] - 4:2  
**second** [4] - 32:21,  
32:25, 35:9, 41:10  
**secret** [2] - 54:4,  
54:5  
**security** [3] - 18:3,

25:8, 44:6  
**SECURITY** [1] - 1:4  
**Security** [1] - 4:5  
**see** [10] - 5:4, 5:5,  
5:6, 7:16, 8:2, 8:10,  
28:17, 37:20, 52:9,  
55:24  
**seem** [2] - 41:16,  
42:17  
**sees** [1] - 44:14  
**segregation** [1] -  
9:17  
**semantic** [2] - 11:13,  
12:24  
**send** [5] - 31:15,  
32:13, 53:23, 55:1,  
56:17  
**sending** [1] - 47:14  
**sense** [4] - 20:6,  
43:4, 51:25, 53:25  
**sensible** [2] - 42:24,  
45:23  
**separate** [2] - 54:6,  
54:24  
**serious** [1] - 6:20  
**serve** [1] - 13:4  
**served** [2] - 33:18,  
37:2  
**service** [1] - 27:24  
**session** [1] - 38:4  
**set** [2] - 31:14, 32:24  
**setting** [1] - 13:16  
**settled** [3] - 10:2,  
36:2, 56:10  
**Settlement** [5] -  
9:20, 28:3, 28:12,  
28:14, 49:12  
**settlement** [43] -  
5:25, 6:1, 6:3, 7:10,  
7:17, 8:2, 11:3, 13:4,  
13:23, 17:12, 18:1,  
18:5, 18:13, 19:24,  
20:11, 21:24, 23:11,  
24:6, 25:1, 26:1, 26:2,  
26:7, 27:22, 31:10,  
31:14, 33:2, 34:12,  
34:15, 35:24, 37:23,  
37:25, 38:8, 38:20,  
39:14, 44:3, 45:11,  
49:13, 53:22, 54:9,  
54:11, 54:25, 55:1  
**settlements** [7] -  
24:19, 24:20, 27:8,  
35:15, 37:24, 43:20,  
44:24  
**shall** [1] - 23:23  
**sharp** [1] - 41:12  
**sheepish** [1] - 30:20  
**Sherrie** [1] - 4:13  
**SHERRIE** [1] - 1:14

**ship** [1] - 39:7  
**ships** [1] - 39:2  
**shoals** [2] - 39:8,  
39:16  
**short** [2] - 11:12,  
15:22  
**shorthand** [4] -  
11:10, 12:24, 13:11  
**show** [3] - 26:14,  
36:8, 54:8  
**showed** [1] - 9:18  
**showing** [1] - 54:20  
**shriff** [1] - 11:12  
**SHUB** [1] - 2:11  
**side** [11] - 15:13,  
19:11, 19:22, 22:5,  
23:9, 26:14, 29:12,  
32:21, 32:23, 51:24,  
52:4  
**sides** [2] - 17:17,  
34:11  
**sign** [4] - 27:15,  
44:11, 47:9, 47:10  
**significant** [2] - 18:4,  
52:12  
**silent** [4] - 19:16,  
28:1, 28:2, 28:9  
**similar** [1] - 34:9  
**simple** [1] - 54:7  
**single** [1] - 18:20  
**situations** [1] - 42:4  
**small** [2] - 51:18,  
51:21  
**smart** [1] - 44:19  
**sniping** [1] - 38:10  
**snow** [3] - 27:12,  
27:13, 34:11  
**snowflake** [1] -  
53:16  
**so-called** [5] - 17:11,  
19:22, 25:19, 32:21,  
33:16  
**solely** [1] - 16:9  
**someplace** [1] -  
53:12  
**sometimes** [1] - 36:8  
**somewhat** [2] - 7:2,  
7:6  
**song** [2] - 24:24  
**sorry** [2] - 29:25,  
47:25  
**sort** [6] - 29:10,  
31:20, 35:13, 40:14,  
54:17, 55:21  
**sound** [2] - 21:8,  
42:5  
**sounds** [2] - 4:23,  
24:24  
**South** [1] - 2:4  
**speaking** [3] - 9:10,

12:10, 50:8  
**special** [5] - 41:13,  
53:15, 53:16  
**specialness** [1] -  
41:17  
**specific** [2] - 31:21,  
31:22  
**specifically** [1] -  
43:11  
**spend** [1] - 38:18  
**spent** [5] - 8:3, 17:8,  
46:11, 46:14, 54:12  
**spokesperson** [1] -  
14:15  
**ssavett@bm.net** [1]  
- 1:16  
**stage** [1] - 13:16  
**stake** [1] - 29:23  
**stand** [1] - 11:23  
**standing** [3] - 6:10,  
38:16, 46:12  
**start** [3] - 4:6, 5:17,  
40:24  
**started** [2] - 38:4,  
40:24  
**starting** [2] - 42:23,  
42:24  
**statement** [1] - 51:13  
**statements** [1] -  
31:13  
**STATES** [1] - 1:1  
**stating** [1] - 13:20  
**station** [1] - 18:22  
**Staton** [1] - 10:25  
**STATUS** [1] - 1:4  
**stay** [1] - 55:3  
**steady** [1] - 52:20  
**stenographically** [1]  
- 1:24  
**step** [3] - 21:5,  
46:22, 46:23  
**stepping** [1] - 47:6  
**stick** [1] - 39:6  
**still** [13] - 6:1, 13:1,  
20:14, 21:22, 26:23,  
26:24, 36:11, 38:10,  
38:12, 38:16, 41:14,  
41:15, 52:14  
**stipulated** [1] - 10:1  
**stipulation** [1] -  
56:11  
**stolen** [1] - 18:23  
**straightforward** [1] -  
22:14  
**Street** [5] - 1:8, 1:15,  
2:4, 2:17, 2:22  
**stressed** [1] - 17:1  
**strong** [2] - 25:20,  
45:23  
**strongly** [3] - 38:11,

<p>42:22, 56:7  <b>structured</b> [1] - 55:13  <b>struggle</b> [1] - 30:25  <b>studying</b> [1] - 40:17  <b>stuff</b> [1] - 39:9  <b>stupid</b> [2] - 44:17, 44:18  <b>subject</b> [1] - 36:16  <b>submit</b> [5] - 10:8, 15:23, 45:18, 48:19, 53:4  <b>submitted</b> [2] - 47:11, 56:12  <b>substance</b> [1] - 29:2  <b>suggest</b> [2] - 22:9, 42:22  <b>suggested</b> [7] - 10:15, 10:16, 34:8, 43:10, 43:11, 46:3, 55:20  <b>suggesting</b> [4] - 27:10, 27:11, 27:14, 44:8  <b>suggestion</b> [5] - 39:24, 45:23, 50:23, 51:1, 51:4  <b>suggests</b> [3] - 33:19, 37:3, 42:12  <b>Suite</b> [4] - 1:15, 2:4, 2:13, 2:22  <b>sum</b> [2] - 8:23, 32:9  <b>super</b> [1] - 21:24  <b>superior</b> [2] - 44:22, 45:13  <b>supervised</b> [1] - 17:23  <b>supervising</b> [1] - 41:25  <b>support</b> [2] - 21:4, 26:24  <b>supposed</b> [11] - 11:4, 12:14, 12:20, 15:17, 19:5, 24:25, 36:13, 38:9, 45:17, 48:24  <b>surface</b> [1] - 33:12  <b>swear</b> [1] - 12:21  <b>syllable</b> [1] - 54:13  <b>system</b> [3] - 17:22, 37:21, 47:3</p>	<p><b>tat</b> [1] - 27:18  <b>teacher</b> [2] - 36:8, 53:18  <b>temporary</b> [2] - 33:19, 37:3  <b>ten</b> [1] - 38:5  <b>term</b> [1] - 13:11  <b>terms</b> [12] - 5:25, 6:14, 18:17, 23:8, 25:4, 25:7, 29:5, 29:14, 39:10, 43:24, 44:5, 54:7  <b>test</b> [2] - 20:14, 34:3  <b>THE</b> [162] - 1:1, 1:1, 1:11, 1:14, 2:2, 2:7, 2:11, 2:16, 2:20, 4:2, 4:20, 4:25, 5:4, 5:6, 5:12, 5:21, 5:23, 6:10, 6:13, 6:15, 6:19, 7:4, 7:15, 8:5, 8:17, 9:2, 9:7, 9:10, 9:13, 9:21, 9:24, 10:5, 10:9, 10:12, 10:18, 10:24, 11:1, 11:4, 11:12, 11:16, 11:20, 12:3, 12:7, 12:9, 12:13, 13:1, 13:6, 13:10, 13:17, 13:22, 14:1, 14:5, 14:9, 14:14, 14:17, 14:23, 15:3, 15:6, 15:12, 15:16, 16:1, 17:6, 17:20, 18:6, 18:9, 18:15, 19:5, 19:13, 20:3, 20:18, 20:22, 21:1, 21:7, 21:11, 21:16, 22:1, 22:9, 23:6, 23:15, 24:9, 24:16, 25:25, 26:5, 26:15, 27:1, 28:7, 28:18, 29:1, 29:13, 29:16, 29:18, 30:1, 30:19, 31:2, 31:7, 32:1, 33:1, 33:21, 34:3, 36:5, 36:11, 36:19, 37:10, 37:24, 38:12, 38:15, 38:21, 38:23, 39:1, 39:5, 39:20, 40:3, 40:7, 40:9, 40:12, 40:14, 40:20, 40:23, 41:2, 41:12, 42:2, 43:15, 43:18, 43:22, 44:8, 44:23, 45:9, 45:15, 45:25, 46:9, 46:11, 46:25, 47:4, 47:7, 47:15, 47:20, 47:23, 48:3, 48:20, 49:3, 49:5, 49:8, 49:14, 49:17, 49:23, 49:25, 50:2, 50:4,</p>	<p>50:9, 50:19, 50:23, 51:6, 52:25, 55:6, 55:24, 56:3, 56:6, 56:9, 56:14, 56:17, 56:19, 56:23  <b>themselves</b> [3] - 5:14, 35:24, 41:17  <b>THEODORE</b> [2] - 2:21, 3:8  <b>Theodore</b> [1] - 4:18  <b>theory</b> [3] - 37:23, 37:25, 38:6  <b>therefore</b> [1] - 11:1  <b>they've</b> [3] - 28:20, 31:16, 47:2  <b>thinking</b> [1] - 21:8  <b>thinks</b> [2] - 22:16, 52:20  <b>third</b> [2] - 6:2, 48:11  <b>Third</b> [52] - 5:13, 6:3, 6:22, 7:2, 7:5, 7:13, 9:19, 10:20, 12:5, 14:3, 15:9, 15:18, 16:11, 16:12, 16:18, 17:7, 20:1, 24:4, 26:10, 26:13, 28:3, 28:11, 28:12, 28:13, 28:16, 30:6, 30:13, 31:19, 32:23, 33:4, 33:16, 33:20, 34:7, 36:21, 39:23, 42:16, 42:20, 43:7, 43:16, 45:20, 46:1, 47:22, 48:7, 48:13, 48:15, 48:16, 49:11, 53:6, 55:1, 55:10  <b>thorough</b> [3] - 11:17, 19:3, 52:5  <b>thoroughly</b> [1] - 21:20  <b>thoughts</b> [1] - 27:17  <b>thousands</b> [1] - 20:6  <b>three</b> [1] - 55:20  <b>throats</b> [1] - 48:25  <b>Tier</b> [2] - 28:5  <b>tiers</b> [2] - 32:1, 32:2  <b>tired</b> [1] - 49:17  <b>tit</b> [1] - 27:18  <b>today</b> [4] - 5:16, 12:7, 34:10, 56:16  <b>together</b> [6] - 6:11, 38:7, 41:6, 48:24, 51:7, 53:2  <b>took</b> [1] - 29:15  <b>topic</b> [1] - 21:16  <b>topics</b> [1] - 29:2  <b>total</b> [3] - 8:22, 8:23, 34:25  <b>Tower</b> [1] - 2:12  <b>track</b> [8] - 4:4, 6:1,</p>	<p>54:24, 54:25, 55:19, 55:21, 55:22, 56:9  <b>transcript</b> [1] - 57:1  <b>transcription</b> [1] - 1:25  <b>trees</b> [1] - 45:6  <b>tremendous</b> [1] - 31:7  <b>trial</b> [2] - 24:19, 38:23  <b>Trial</b> [1] - 16:5  <b>tried</b> [2] - 47:2, 48:11  <b>trip</b> [1] - 48:2  <b>true</b> [1] - 53:1  <b>truly</b> [3] - 6:21, 10:5, 22:11  <b>trust</b> [3] - 8:16, 8:17, 46:11  <b>truth</b> [2] - 12:19, 29:12  <b>try</b> [4] - 30:7, 38:24, 47:20, 53:2  <b>trying</b> [2] - 25:25, 53:18  <b>turn</b> [1] - 29:6  <b>turning</b> [1] - 25:19  <b>turns</b> [1] - 44:16  <b>twins</b> [1] - 40:17  <b>two</b> [22] - 6:25, 7:1, 7:9, 15:10, 15:14, 16:22, 18:14, 20:12, 21:23, 22:4, 25:12, 28:11, 30:9, 37:6, 37:10, 42:15, 48:10, 50:10, 52:13, 53:4, 53:20, 55:20  <b>types</b> [1] - 26:11</p>	<p>51:7, 52:2, 52:24  <b>usage</b> [1] - 25:12  <b>utilizing</b> [1] - 1:24</p>
<b>V</b>				
<p><b>vacated</b> [2] - 6:3, 22:25  <b>vacation</b> [1] - 5:24  <b>valuable</b> [3] - 17:4, 17:16, 43:20  <b>valuation</b> [2] - 19:23, 52:2  <b>value</b> [15] - 10:18, 10:21, 18:18, 18:23, 20:1, 20:3, 24:14, 24:15, 25:11, 31:1, 31:7, 34:21, 46:24, 54:18  <b>valuing</b> [2] - 17:12  <b>verbiage</b> [1] - 49:18  <b>version</b> [3] - 27:22, 28:10, 28:15  <b>view</b> [2] - 13:14, 53:1  <b>vigorous</b> [1] - 31:16  <b>vision</b> [1] - 26:5  <b>voluntary</b> [2] - 44:6, 44:21  <b>vouch</b> [1] - 31:10</p>				
<b>W</b>				
<p><b>wait</b> [2] - 55:4, 55:21  <b>walk</b> [2] - 37:18, 38:12  <b>walking</b> [1] - 8:3  <b>wall</b> [1] - 41:19  <b>wants</b> [5] - 10:3, 14:22, 52:10, 53:3, 55:4  <b>Washington</b> [1] - 2:22  <b>watch</b> [1] - 31:15  <b>waves</b> [1] - 39:8  <b>WAWA</b> [2] - 1:4, 2:16  <b>Wawa</b> [30] - 4:5, 4:16, 9:17, 18:2, 18:4, 18:20, 20:6, 20:8, 20:9, 20:18, 23:23, 23:25, 24:1, 24:13, 25:4, 25:10, 25:17, 29:21, 29:22, 31:8, 31:11, 32:6, 32:10, 35:2, 43:25, 44:4, 47:9, 49:9, 54:23  <b>Wawa's</b> [3] - 17:4, 18:17, 29:18  <b>weaker</b> [1] - 43:4  <b>week</b> [1] - 6:8  <b>weeks</b> [5] - 37:6,</p>				
<b>U</b>				
<p><b>U.S</b> [1] - 1:7  <b>unappealable</b> [1] - 32:19  <b>under</b> [5] - 5:25, 10:22, 23:12, 39:10, 51:2  <b>understood</b> [1] - 42:17  <b>unfortunate</b> [2] - 29:14, 40:5  <b>unique</b> [3] - 53:13, 53:14, 53:15  <b>UNITED</b> [1] - 1:1  <b>unless</b> [1] - 42:2  <b>unnecessary</b> [1] - 37:15  <b>untoward</b> [1] - 27:16  <b>up</b> [11] - 5:16, 9:5, 12:21, 21:21, 24:8, 26:13, 36:12, 48:2,</p>				
<b>T</b>				
<p><b>table</b> [4] - 35:16, 35:17, 49:15, 50:7  <b>tainted</b> [1] - 28:17  <b>take-it-or-leave-it</b> [1] - 50:22  <b>tangible</b> [1] - 18:2</p>				

53:4, 53:20, 55:20,  
55:25  
**weight** <sup>[1]</sup> - 31:6  
**weighted** <sup>[1]</sup> - 46:19  
**weird** <sup>[1]</sup> - 25:25  
**welcome** <sup>[3]</sup> - 4:20,  
4:25, 7:12  
**Welsh** <sup>[5]</sup> - 8:19,  
13:18, 13:19, 13:20,  
23:13  
**West** <sup>[1]</sup> - 2:13  
**whole** <sup>[1]</sup> - 40:11  
**willing** <sup>[5]</sup> - 5:14,  
9:5, 9:18, 9:23, 32:12  
**winking** <sup>[1]</sup> - 33:24  
**winter** <sup>[1]</sup> - 27:13  
**wish** <sup>[1]</sup> - 6:7  
**withdraw** <sup>[1]</sup> - 49:12  
**withdrew** <sup>[1]</sup> - 6:2  
**word** <sup>[5]</sup> - 6:16, 6:17,  
11:9, 11:14, 13:8  
**words** <sup>[5]</sup> - 13:6,  
17:7, 17:25, 35:19,  
54:13  
**works** <sup>[1]</sup> - 7:23  
**world** <sup>[1]</sup> - 40:18  
**worried** <sup>[3]</sup> - 34:23,  
34:24, 35:8  
**worry** <sup>[1]</sup> - 20:8  
**write** <sup>[3]</sup> - 40:16,  
40:20, 52:8  
**writing** <sup>[1]</sup> - 20:13

## Y

**year** <sup>[1]</sup> - 40:18  
**years** <sup>[7]</sup> - 17:9,  
18:14, 20:12, 21:23,  
25:12, 46:11, 52:13  
**yield** <sup>[1]</sup> - 22:7  
**York** <sup>[1]</sup> - 2:9  
**yourself** <sup>[1]</sup> - 40:21  
**youth** <sup>[1]</sup> - 7:19

## Z

**zealous** <sup>[2]</sup> - 33:19,  
37:4  
**zealously** <sup>[1]</sup> - 34:12  
**zero** <sup>[1]</sup> - 43:4